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108

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 274.

THE STATE OF LOUISIANA, EX REL. THE NEW ORLEANS GAS-LIGHT COMPANY, PLAINTIFF IN ERROR,

vs.

THE COUNCIL OF THE CITY OF NEW ORLEANS, ISAAC W. PATTON, MAYOR, ET AL.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

FILED SEPTEMBER 23, 1880.

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INDEX.

	Original.	Print.
Petition	1	1
Affidavit (James Jackson)	10	4
Order	11	4
Writ of mandamus	11	5
Return writ of mandamus (city council)	12	5
(I. W. Patton)	13	5
(A. H. Isaacson)	13	6
(John Glynn, jr.)	14	6
(E. R. Chevalley)	14	6
(P. Meallie)	14	6
(J. Henry Behan)	15	6
(Wash. Marks)	15	6
(J. D. Houston)	15	7
Supplemental petition	16	7
Order	17	7
Order and continuance	17	7
Supplemental petition	17	8
Affidavit (James Jackson)	21	9
Order	22	9
Answer to mandamus	22	9
Order and continuance	26	11
Note of evidence	27	11
Ordinance, marked B	29	12
Pamphlet, marked A	29	12
Contract, marked No. 1	47	19
Demurrer annexed to contract	52	22
Contract, marked No. 2	53	22
Petition in case No. 45064	59	24

	Original.	Print.
Answer in case No. 45064	67	27
Judgment in case No. 45064	68	28
Bill marked No. 1	70	29
No. 2	71	30
No. 3	73	31
No. 4	74	32
No. 5	75	33
No. 6	76	33
No. 7	77	34
No. 8	79	36
No. 9	80	37
No. 10	81	37
No. 11	82	38
No. 12	84	40
No. 13	85	41
Written demand, marked C	86	42
Petition in case No. 45645	88	43
Affidavit (James Jackson)	96	46
Bond of injunction	97	46
Order	98	47
Writ of injunction	98	47
Return writ of injunction	100	48
Ordinances of city council of New Orleans:		
Exhibit marked No. 16	100	48
No. 17	102	49
No. 18	103	49
No. 19	104	50
No. 20	105	50
No. 21	106	51
No. 22	107	51
No. 23	108	52
No. 24	110	53
No. 25	111	53
No. 26	112	54
No. 27	113	54
No. 28	114	55
Testimony, John Glynn, jr	120	57
Document marked Z (statement of judgments unpaid)	130	62
Budget of receipts, marked Y	136	65
Ordinances of the city council of New Orleans:		
Document marked X	138	66
V	150	73
U	153	75
T	161	80
S	163	81
R	165	82
Q	167	84
P	170	86
O	175	89
N	177	90
M	182	93
L	187	96
K	189	97
J	195	101
I	198	103

	Original.	Print.
Ordinances of the city council of New Orleans—Continued.		
Document marked H	200	104
G	205	107
E	207	108
D	208	109
C	209	109
B	211	110
A	212	111
A 2	213	111
A 3	214	112
A 4	215	112
Reasons for judgment	216	113
Judgment	225	117
Motion for appeal	227	117
Bond of appeal	227	118
Agreement	228	118
Clerk's certificate	229	118
PROCEEDINGS IN THE SUPREME COURT OF LOUISIANA.		
Order summary docket	230	118
Continued with reference	231	119
Continued with reference	231	120
Called and continued	232	120
Called and submitted	232	121
Opinion of the court	233	121
Judgment and decree	237	123
Application for a rehearing	238	123
Second supplemental brief	244	125
Rehearing refused	246	126
Copy of petition for writ of error	246	127
Copy of writ of error	249	128
Bond for writ of error	251	129
Clerk's certificate	254	130
Judge's certificate	255	130
Original petition for writ of error	256	130
Original writ of error	259	131
Original citation	260	132

1 STATE OF LOUISIANA:

Fourth district court for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT COMPANY,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 45644.

Petition filed Sept. 23d, 1879.

To the honorable the judge of the fourth district court in and for the parish of Orleans:

This petition of the State of Louisiana, on the relation of the New Orleans Gas-Light Company, a corporation chartered by the laws of this State, and domiciled in the parish of Orleans, respectfully represents that, on the 13th day of June, 1878, in due course of legal proceedings in the case of relators versus the city of New Orleans, a judgment was rendered contradictorily in favor of relators and against the said city of New Orleans, and signed on the 19th, in the sum of one hundred and thir-

2 teen thousand three hundred and sixty-eight $\frac{85}{100}$ dollars, with interest at the rate of seven per cent. per annum until paid, on the following named sums: on four thousand and five $\frac{94}{100}$ dollars from Sept. 1st, 1875; on the sum of four thousand two hundred and fourteen $\frac{80}{100}$ dollars from October 1st, 1875; on the sum of five thousand and three $\frac{81}{100}$ dollars from February 1st, 1876; on the sum of eight thousand six hundred and eighty-four $\frac{61}{100}$ dollars from September 1st, 1876; on the sum of nine thousand and one hundred and forty-seven $\frac{04}{100}$ dollars from October 1st, 1876; on the sum of nine thousand three hundred and thirty-eight $\frac{15}{100}$ dollars from November 1st, 1876; on the sum of nine thousand seven hundred and fifty-nine $\frac{57}{100}$ dollars from December 1st, 1876; on the sum of ten thousand two hundred and thirty-four $\frac{56}{100}$ dollars from January 1st, 1877; on the sum of ten thousand eight hundred and eighty-two $\frac{8}{100}$ dollars from 1st February, 1877; on the sum of nine thousand seven hundred and five $\frac{53}{100}$ dollars from November 1st, 1877; on the sum of ten thousand two hundred and sixty-nine $\frac{07}{100}$ dollars from December 1st, 1877; on the sum of ten thousand eight hundred and seventy-four $\frac{69}{100}$

3 dollars from January 1st, 1878; and on the sum of eleven thousand and two hundred and forty-eight $\frac{21}{100}$ dollars, from February 1st, 1878, until paid, and costs of suit, all of which will more fully appear by reference to the record of said cause and numbered 45064 on the docket of this honorable court; that the said judgment was for gas furnished by relators to the defendant during the years 1875, 1876, 1877, and 1879, and the said indebtedness was a part of the necessary current expenses of the city government during those years.

Your petitioners and relators further allege that on the 23d day of October, 1878, the relators caused to be filed in the office of the administrator of public accounts certified copies of the petition, answer, and judgment in said cause, and the certificate of the clerk of the court that said

judgment was final and executory, which were on that date registered in the said office of the administrator of public accounts, all according to the provisions of acts Nos. 5 & 7 of the extra session of 1870. That on the same day your relators requested the administrator of public accounts, in writing, to issue his warrant according to law for the payment of said judgment. That notwithstanding the said administrator failed to
4 issue said warrant, and that in the adoption of the annual budget thereafter the council of the city has made no appropriation for the payment of relators or any other judgment, and that relators have received no part of said judgment, and that no provision for its payment has ever been made.

Petitioners and relators further show that relators are prohibited by act No. 5 aforesaid from issuing a fieri facias or any other writ of execution against the said city. That by virtue of the said acts Nos. 5 and 7 of the extra session of 1870 the remedy of judgment creditors is as follows: Judgment creditors are to cause their judgments to be recorded in the office of the administrator of public accounts with other papers required by the said acts, and it is then made the duty of the administrator to draw his warrant on the administrator of finance for the payment of said judgment on the fund previously appropriated for that purpose in the annual budget or budgets, or in case of the exhaustion of those funds then on such portion of the amount appropriated for contingent expenses in the annual budgets as the council may by special appropriation in their discretion direct to be applied to that purpose; and in case there be no appropriation in any way all judgments are required to be paid in
5 the order in which they are filed and registered in the office of the administrator of public accounts from the first money next annually set apart for that purpose.

Your petitioners and relators further show that by section 19 of act No. 7 of the acts of the extra session of 1870, and the 14th section of act No. 73 of the acts of 1872, it is made the duty of the council to adopt annually an estimate or budget of receipts or revenues, and separately an estimate of expenditures and liabilities, and that it is the duty of the city council in making the estimate of receipts and revenues to include all revenues likely to accrue during the ensuing year from licenses and taxes and all sources whatever, including amounts receivable for franchises and rights of way, or in the shape of a bonus from the city railroads laid by license from the council in the streets of the city.

Your petitioners and relators further show that the council of the city have power to levy an annual tax of one and a half per centum on all real and personal property in the city of New Orleans and licenses on all trades and professions, and that there will accrue during the year 1880, the following additional revenues: on the 3d day of February, 1880, there will expire the rights of way previously granted to the New Or-
6 leans City Railroad Company on Camp and Prytannia and Camp and Magazine streets, and on the 2d day of July, 1880, the right of way on the Rampart and Dauphin, Canal street and Metairie Ridge to Bayou St. John, and the Esplanade and Bayou Bridge lines, and at those dates respectively will accrue the right of the city to purchase, at an appraised value, all the property belonging to those lines. That by ordinance 4698, administration series, adopted March 26th, 1879, the council

ordered the administrator of commerce to advertise for sealed proposals for the sale of the franchises of the said road for twenty-five years from the expiration of the present franchises, and that an advertisement has been made accordingly, by calling for sealed proposals to be opened on the 1st day of September, 1879, all of which will more fully appear by reference to the pamphlet herewith filed and marked Exhibit A. That the said advertisement prescribed that the property should be sold for cash on the delivery of the franchises, and the delivery to be complete by placing the purchaser in actual possession, as well as signing the act of transfer.

Your petitioners and relators further aver that, at the time of opening the sealed proposals, various bids were found and one from a responsible party for six hundred and thirty thousand dollars; that a
7 deposit of fifty thousand dollars was made as required by the advertisement, and that the bidder, the New Orleans City Railroad Company, stand ready to abide by and perform its bid. Responsible parties have offered a larger amount.

Now your petitioners and relators further aver that whatever may be received from the sale of said franchises is a revenue which ought to be budgeted and included in the estimate of receipts and revenues for the year in which it accrues; that according to the terms of the advertisement, and from the fact that the city has no control over the franchises offered for sale until the expiration of those now existing, the price of said franchises is a part of the revenue of 1880, ought to be included in its revenues for that year in the budget to be adopted, and from a fund to be appropriated to the payment of the expenses and liabilities of the city, including registered judgments; that in violation of the provisions of law aforesaid and of the rights of your relators, the council of the city have resolved to collect, as soon as possible before the budget of 1880 is made up, the price, and to use it at once in the retirement of the bonded and floating debts of the city indiscriminately, whether due or not, as will appear by reference to an ordinance or resolution adopted
8 August 26th, 1879, a copy of which is hereto annexed and marked Exhibit B.

Your petitioners and relators further show that the bonds intended in the said resolution or ordinance are premium bonds; that the council does not recognize, and is not permitted by law to recognize, any other bonds; that by act No. 31 of the acts of 1876 provision was made for the payment of premium bonds by the levy of a special tax of one half of one per centum annually on all the assessed property within the corporate limits of the city, and the city council is required to levy annually that tax for that purpose. The tax as collected is required to be set apart and placed to the credit of an account to be called the premium-bond account. No other provision for the payment of said bonds has been made or is contemplated than appears in said act. For other purposes the council is authorized to levy an additional annual tax of one per centum on all assessed property within the corporate limits of the city.

Your petitioners and relators further allege that they have been advised and believe that the current expenses and judgments in the order of their registration are entitled to be paid by preference over all other lia-
9 bilities of the city out of any annual revenues not specially destined

and appropriated by law to other purposes, and that it is the duty of the council to exhaust the power of taxation to provide for the payment of said judgments.

Your petitioners and relators aver that the price of the sale of the railroad franchises now about to be made, together with the taxes, which it is the duty of the council to levy, will suffice to pay their judgment aforesaid, in addition to all judgments previously registered. Your petitioners and relators further show that the slowness of ordinary legal proceedings renders them inadequate to afford your relators relief, and thus they have no other legal remedy than the writ of mandamus.

Your petitioners and relator further show that the appropriation by the council to the retirement of premium bonds, if permitted to go into operation will work them an irreparable injury.

Wherefore petitioners and relators pray, in consideration of the premises and of the subjoined affidavit, that a writ of mandamus issue in the name of the State to the council of the city of New Orleans, composed of Isaac W. Patton, mayor, Alfred H. Isaacson, administrator of finance, John Glynn, jr., administrator of public accounts, E. R. Cherally,
10 administrator of water works and public buildings, P. Meallie, administrator of police, J. Henry Behan, administrator of commerce, Washington Marks, administrator of assessments, and J. D. Houston, administrator of improvements, and to the said mayor and administrators separately commanding them *them* to include in the next budget or estimate of receipts, the price or proceeds of the aforesaid railroad franchises, and in the next budget or estimate of expenses and liabilities the judgment aforesaid in favor of relators, the New Orleans Gas-Light Company, and all previously registered judgments, and in order to insure a sufficient fund to provide for the payment of said judgments that they and their successors in office shall, if necessary, exhaust their powers of taxation and continue so to do until relators' judgment is paid and satisfied.

(Signed) JOHN & W. S. FINNEY,
Att'ys for Relators.

Affidavit—(James Jackson).

James Jackson, being duly sworn, declares that he is the president of the New Orleans Gas-Light Company, and that all the allegations in the foregoing petition are true.

(Signed) JAMES JACKSON.

11 Sworn to and subscribed before me this 22d day of September, 1879.

[SEAL.] (Signed) JAMES FAHEY,
Notary Public.

Order.

Let a writ of mandamus issue in this cause as prayed for and according to law, commanding the mayor and administrators of the city of New Orleans to comply with the demand of the within petition, or show cause to the contrary on the sixth day of October, 1879, at 11 o'clock a. m.

(Signed) W. H. ROGERS,
Judge Fifth District Court, acting for the Judge of the Fourth District Court, absent from the State.

Writ of mandamus.

STATE OF LOUISIANA:

Fourth district court for the parish of Orleans.

The State of Louisiana to the city council of New Orleans (through I. W. Patton, mayor of said city); to I. W. Patton, mayor; Alfred
12 H. Isaacson, administrator of finance; John Glynn, jr., administrator of public accounts; E. R. Chevalley, administrator of water works and public buildings; P. Meallie, administrator of police; J. Henry Behan, administrator of commerce; Washington Marks, administrator of assessments; and J. D. Houston, administrator of improvements, city of New Orleans, greeting:

STATE EX REL. NEW ORLEANS GAS-LIGHT Company
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS.

You are hereby commanded, in the name of the State of Louisiana and of the fourth district court for the parish of Orleans, to comply with the prayer of the petition, of which a true copy accompanies this writ of mandamus, or to show cause to the contrary on October 6th, A. D. 1879, at the hour of 11 o'clock a. m.

Witness the honorable W. H. Rogers, judge 5th district court, acting for the honorable W. T. Houston, judge of our said court, this 23d day of September, in the year of our Lord one thousand eight hundred and seventy-nine, and in the 104th year of the Independence of the United States.

(Signed) GEO. P. CAZELAR,
D'y Clerk.

Return writs of mandamus. (*City council.*)—*Filed Sept.* 23*d*, 1879.

13 Received Sept. 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on the city council of the city of New Orleans, through I. W. Patton, mayor, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*I. W. Patton, mayor.*)—*Filed Sept.* 23*d*, 1879.

Received Sept. 23d, 1879, and on the 23d of Sept., 1879, I served a copy of the within writ of mandamus and copy of petition on I. W. Patton, mayor of the city of New Orleans, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*A. H. Isaacson administrator of finance.*)—*Filed Sept. 23d*, 1879.

Received Sept. 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on Alfred H. Isaacson, administrator of finance, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

14 *Return writ of mandamus.* (*John Glynn, jr., adm'r public accounts.*) —*Filed Sept. 23d*, 1879.

Received September 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on John Glynn, jr., administrator of public accounts, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*E. R. Chevalley, administrator of water works and public buildings.*)—*Filed Sept. 23d*, 1879.

Received September 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on E. R. Chevalley, administrator of water works and public buildings, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*P. Meallie, administrator of police.*)—*Filed Sept. 23d*, 1879.

Received September 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of pe-
15 tition on P. Meallie, administrator of police, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*J. Henry Behan, adm'r of commerce.*)—*Filed Sept. 23d*, 1879.

Received September 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on J. Henry Behan, administrator of commerce, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*Wash. Marks, adm'r of assessments.*)—*Filed Sept. 23d*, 1879.

Received September 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on Washington Marks, administrator of assessments, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Return writ of mandamus. (*J. D. Houston, adm'r of improvements.*)—*Filed Sept. 23d*, 1879.

16 Received September 23d, 1879, and on the 23d day of September, 1879, I served a copy of the within writ of mandamus and copy of petition on J. D. Houston, administrator of improvements, in person.

(Signed) T. J. MARSHALL,
D'y Sheriff.

Supplemental petition.—Filed Oct. 6th, 1879.

Fourth district court for the parish of Orleans.

STATE, EX REL. N. O. GAS-LIGHT CO., *vs.* CITY COUNCIL ET ALS. } No. 45644.

To the honorable the judge of the fourth district court for the parish of Orleans:

This supplemental petition of the State of Louisiana, on the relation of the New Orleans Gas-Light Company, respectfully represents that since the filing of the original petition herein, the city has received, through its proper officers, the sum of six hundred and thirty thousand dollars for the grant of the right of way to the New Orleans City Railroad Company mentioned in the original petition.

Wherefore petitioners and relators pray that a writ of mandamus
17 issue as prayed for in the original petition, and for all general and equitable relief and costs of suit.

(Signed) JOHN & W. S. FINNEY,
Attorneys.

Order.

Let this supplemental and amended petition be filed, as prayed for and according to law.

New Orleans, Oct. 6th, 1879.

(Signed) W. H. ROGERS,
Judge 5th District Court, acting during temporary absence of Judge W. T. Houston.

Order and continuance.—Extract from the minutes, October 13th, 1879.

Fourth district court for the parish of Orleans.

STATE, EX REL., N. O. GAS-LIGHT CO., *vs.* CITY COUNCIL ET ALS. } No. 45644.

The mandamus herein fixed for trial this day, owing to the absence of counsel for defendants, it is ordered by the court that said mandamus be reassigned for next Monday, 20th inst., at 11 o'clock a. m., and defendants notified hereof through counsel.

Supplemental petition.—Filed Oct. 20th, 1879.

18 Parish of Orleans.

STATE, EX REL., NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF CITY OF NEW ORLEANS, its Mayor and Administrators. } No. 45644.

To the honorable the judge of the fourth district court in and for the parish of Orleans:

This supplemental petition of the State of Louisiana, on the relation of the New Orleans Gas-Light Co., respectfully represents: That the annual budgets adopted by the council of the city of New Orleans for the years 1875, 1876, 1877, and 1878 appropriated sufficient amounts of money each year to pay the amounts owing and accrued during those years respectively for gas furnished to the city by the relators, and that the annual budgets during those years of receipts and revenues adopted by the council embraced and included sufficient amounts of money to cover and provide for the amounts of indebtedness accrued to each year respectively and the amounts appropriated to pay the same in the budget or estimate of expenditures and liabilities.

19 Your petitioners and relators further show that the amount due the relators and embraced in the judgment, the payment of which is sought to be enforced in this suit, is due for gas furnished under contracts made prior to the 6th March, 1876, between the city of New Orleans and relators, as will appear by reference to duly certified copies of authentic acts passed before G. Le Gardeer, notary public, on the 31st of December, 1874, and the 17th of December, 1875, marked No. 1 and No. 2, and the bills of particulars filed in the suit of the New Orleans the Gas-Light Company vs. The City of New Orleans, No. 45064, on the docket of this honorable court, and hereto annexed. That during the whole period embraced by said contracts, extending from 1st of January, 1875, to the 1st of January, 1878, the council had the power to levy taxes on all real and personal property within the corporate limits of the city of New Orleans, up to the rate of one and seventy-five hundredth per centum.

Petitioners and relators further represent that no subsequent limitation of the power of taxation can affect the right of the relators to have the power of taxation exerted for the payment of their judgment described

20 in their original petition up to the full limits of the power as it existed during the period embraced in said contracts, say from the 1st of January, 1875, to the 1st of January, 1878; and that the limitation of the taxing power of the corporation to one and a half per centum, by act No. 31 of the session acts of 1876, is inoperative and void so far as it affects the rights of relators in the premises and impairs the obligations of the contracts aforesaid, between the city and relators, and violates the 10th section of art. 1st of the Constitution of the United States.

Petitioners and relators further show that by ordinances of the council adopted August 7th, 1875, August 31st, 1875, January 11th, 1876, November 23d, 1876, November 28th, 1876, December 15th, 1876, Jan-

uary 16th, 1877, October 16th, 1877, November 13th, 1877, December 11th, 1877, and January 2d, 1878, duly certified copies of which are filed in said suit No. 45064, and are hereto annexed, the amounts necessary to pay relators' claims were appropriated according to law, and the administrator of public accounts was required to warrant on the administrator of finance in payment of the same whenever there shall be money in the city treasury to the credit of the appropriate fund, for each amount not otherwise appropriated.

21 Petitioners and relators further show that since the filing of the original petition herein the sum of six hundred and thirty thousand dollars ($630,000), has been received in cash by the city of New New Orleans as a consideration of the grant of railroad franchises and right of way referred to in the original petition.

Wherefore petitioners and relators pray that a peremptory writ of mandamus issue, as prayed for in the original petition, and petitioners and relators pray for costs of suit.

(Signed) JOHN & W. S. FINNEY,
Att'ys for Relators.

Affidavit—(James Jackson).

James Jackson, being duly sworn, declares that he is the president of the New Orleans Gas-Light Company, and all the allegations in the foregoing supplemental petition are true, to the best of his knowledge and belief.

(Signed) JAMES JACKSON.

Sworn to and subscribed to before me this 14th day of October, 1879.

(Signed) JAS. FAHEY,
Notary Public.

Service accepted this 11th day of October, 1879, and copy of
22 this petition received.

(Signed) E. HOWARD McCALEB,
City Attorney.

Order.

Let this supplemental petition be filed, as herein prayed for, and according to law.

New Orleans, Oct. 29th, 1879.

(Signed) W. T. HOUSTON, *Judge.*

Answer to mandamus.—Filed Oct. 20th, 1879.

Fourth district court for the parish of Orleans.

STATE, EX REL. THE N. O. GASS-LIGHT CO.,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et al. } No. 45644.

And now into this honorable court comes the defendants, and for cause why the alternative writ of mandamus herein issued should not be made

peremptory, answer and say that relator is not entitled to the relief herein demanded.

They deny all and singular the allegations in relator's petition contained except such as are herein specially admitted. They admit
23 that relator has obtained judgments, as therein set forth, and has caused the same to be registered under the provisions of act No. 5 of the extra session of 1870; they admit the basis of said judgments was the contract set forth, and, as averred by relator, ample provision was made for the payment of the same in the budgets of the various years in which gas was furnished as alleged.

And in this connection defendant' aver that the taxes which were levied to pay said appropriations are now in process of collection, and are ample to pay relator, who by this proceeding is attempting to have a double provision made for the payment of its debts.

They admit that they have disposed of the railroad franchises mentioned in relator's petition to the "City Railroad Company," for the price and sum of six hundred and thirty thousand dollars, but deny that said sale was made on the terms set forth by relators; on the contrary, defendants aver that said sale was made for cash in hand at the time of adjudication, and that the proceeds of said sale have been applied to the reduction of the bonded debt of the city of New Orleans, as required by section 10, of act No. 31, approved March 26th, 1876, and ordinance adopted August 26th, 1879, passed to carry out the provisions of said act long prior to the
24 institution of this suit. Defendants specially deny that said six hundred and thirty thousand dollars thus received was an annual revenue in the sense alleged by relator, or if an annual revenue in such sense that the same was a revenue for the year 1880; but, on the contrary, that if such revenue it was a revenue for the year 1879, in which it was received and appropriated in accordance with law. And, further answering, defendants deny that relator has any interest whatever, real or imaginary, direct or indirect, physical or met*h*aphysical, in said fund, which would entitle him to the aid of a court to direct or control the manner in which it shall be used, appropriated, or disposed of by the city of New Orleans; on the contrary, defendants aver that as the officers of this great corporation, with the power of administering its affairs, their duties with reference to said fund are entirely discretionary so far as relator is concerned, and not merely ministerial to such an extent as to subject them to be controlled by a writ of mandamus.

And, further answering, defendants aver that in every budget since the year 1870 appropriations have been made to pay registered judgments, and that since that date nearly four hundred thousand dollars in
25 cash has been so appropriated and used. That in the budget of the year 1880, and for all subsequent years, defendants intend to appropriate as much money for the payment of registered judgments as possibly can be done; that in other words they intend to exhaust the power of taxation given them by law, and so include in their budget for each year all the revenues therein accruing, and after paying therefrom the necessary alimony of the government and the interest on the bonded debt to *to* appropriate the balance of the revenue to the payment of the registered judgments.

That, as averred by relator itself, this corporation, in order to provide for the fulfilment of its contracts with relator, has exhausted the power of

taxation to the limit for each year in which said contracts were performed, to wit, for the years 1875 and 1876, one and three-quarters per cent. was levied; that for the years 1877 and 1878 a tax of one and a half per cent. was levied; that, as admitted by relator, said taxes were ample and sufficient to satisfy said contracts; that said taxes are now in process of collection, and that defendants are using every means in their power to collect the same; that consequently relator cannot compel a double execution
26 of the same contracts, and double exercise of the same power of taxation for the same purpose; that of relator's power and right to compel the exercise of the taxing power of defendants is to be determined under the original contracts with defendants and the laws then in force. They aver that said contracts have been fully executed, and the said taxing power exhausted as above set forth; that if relator's power and right are not to be so determined by the judgments into which said contracts are merged, they then aver that said judgment was rendered and signed subsequent to said act No. 31 of 1876, limiting the rate of taxation to one and a half per cent., and that said statute does not impair any contract between relator and the city of New Orleans.

Wherefore defendants pray that relator's demand be rejected with costs, and for general relief.

(Signed) E. HOWARD McCALEB,
City Attorney.

(Signed) E. H. FARRAR,
Of Counsel for Defendants.

Order and continuance.—Extract from the minutes, Oct. 20th, 1879.

Fourth dist. court for the parish of Orleans.

STATE, EX REL. THE N. O. GAS-LIGHT COMPANY,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 45644.

27 The application for a writ of mandamus herein prayed for came on this day for trial, J. & W. S. Finney, of counsel for relator, E. Howard McCaleb, of counsel for defendants, when, after hearing pleadings and evidence, by consent of counsel, it is ordered by the court that said application for writ of mandamus be continued to Tuesday, 23d inst., at 11 o'clock, a. m.

Note of evidence.

STATE OF LOUISIANA:

Fourth district court for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT COMPANY,
vs.
THE CITY COUNCIL OF THE CITY OF NEW ORLEANS. } No. 45644. Mandamus.

J. and W. S. Finney for plaintiffs.
E. Howard McCaleb " defendants.

28 Note of evidence taken in open court before Hon. W. T. Houston, judge, on Monday, 20th October, 1879.

Counsel for plaintiff offers in evidence ordinance adopted August 26th, 1879, by the city council, marked B.

Also offers in evidence phamphlet, marked A.

Also offers in evidence two (2) contracts, marked 1 and 2, between the city of New Orleans and the Gas-Light Company, dated December 31st, 1874, & December 17th, 1875.

Also offers in evidence 13 gas bills approved by the administrator of public accounts, marked from 1 to 13.

Also offers in evidence the petition, answer, and judgment in the case of The New Orleans Gas-Light Company vs. The City of New Orleans, No. 45064 of the docket of this honorable court.

Also offers in evidence ordinances of the city of New Orleans, marked from Exhibit 16 to 28, inclusive.

Also offers in evidence the petition, order of injunction, & writ, and return in suit No. 44645.

29 Also offers in evidence written demand of payment, marked C.

Ordinance adopted August 26th, 1879, by the city council, marked B, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.

That the funds which will accrue to the city from the sale of the franchises and rights of reversion of the New Orleans City Railroad Company, be, and the same are hereby, inviolably appropriated, in accordance with the provisions of section 10, of act No. 31 of the acts of 1876, to the retirement of the bonded or floating debt of the city of New Orleans.

Adopted August 26th, 1879.

Published in Picayune, Friday August 29th, 1879.

Pamphlet marked A, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.

Specifications for the sale of the franchises and rights of way of the New Orleans City Railroad Company.

DEPARTMENT OF COMMERCE,
City Hall, New Orleans, June 1st, 1879.

No. 4968. Administration series.

30 Whereas, the franchises granted by the city of New Orleans to the New Orleans City Railroad Company for running certain lines of railroad will expire in 1880; and whereas it is necessary to give ample time to all parties who may desire to make bids or proposals for said franchises at the expiration of the time for which said franchises were granted by the city; therefore, be it

Resolved, That the administrator of commerce be, and is hereby, authorized until the 1st day of July, 1879, in the official journal of the city, and also in one journal in the cities of New York, Philadelphia, Boston, Chicago, and St. Louis, for sealed proposals for the franchises of the fol-

lowing mentioned roads for a period of twenty-five years (25) from the respective dates of the expiration of said franchises granted by the city of New Orleans to *to* the New Orleans City Railroad Company, to wit: 1st. The Magazine, Camp Prytania, Rampart and Dauphin lines, which expire on the 3d day of February, 1880. 2d. The Canal street and Metairie Ridge lines, which expire on the 2d day of July, 1880. 3d. The Esplanade street line which expires on the 2d day of July, 1880.

That the terms of said sale shall be set forth in specifications to be drawn up by the administrator of commerce, with the approval of the
31 council and to be put on file in the office of the administrator of commerce as soon as practicable.

Adopted by the council of the city of New Orleans, March 25th, 1879.
Yeas: Behan, Chevalley, Glynn, Houston, Isaacson, Marks.

A true copy.
(Signed) I. W. PATTON, *Mayor.*
(Signed) ROB'T C. WOOD, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, April 23d, 1879.

No. 5020, administration series.

Resolved, That ordinance No. 4968, administration series, be amended to read as follows:

That the administrator of commerce be, and is hereby, authorized to advertise until the 1st day of September, 1879, in the official journal of the city, and also in one journal in the cities of New York, Philadelphia, Boston, Chicago, and St. Louis, for sealed proposals for the sale of the franchises of the railroad lines named therein, from the respective dates of said franchises granted by the city of New Orleans up to the 1st day of January, 1906.

Adopted by the council of the city of New Orleans, April 22d,
32 1879.
Yeas: Chevalley, Glynn, Isaacson, Marks, Meally.
(Signed) I. W. PATTON, *Mayor.*

A true copy.
(Signed) ROB'T C. WOOD, *Secretary.*

Sale of the franchises of the New Orleans City Railroad Comp'y.

DEPARTMENT OF COMMERCE, ROOM NO. 13, CITY HALL,
New Orleans, May 19th, 1879.

Sealed proposals will be received at the office of the administrator of commerce, room No. 13, city hall, New Orleans, until 12 m. on the 1st day of September, 1879, for the right of way on the following railroads, to wit: Section 1, Camp and Prytania and Camp & Magazine streets lines, which expire on the 3d day of February, 1880; section 2, Rampart and Dauphin, Canal street and Metairie Ridge to Bayou St. John, and Esplanade and Bayou Bridge lines, which expire on the 2d day of July, 1880. The right of way to the purchasers of said franchises shall expire on the

first day of January, 1906, and at the expiration of said time the railroad cars, fixtures, and their appurtenances shall revert to the city on a
33 valuation to be ascertained by two disinterested persons, one to be appointed by the purchaser or purchasers, and the other by the city, and in the event of a disagreement as to said valuation between said persons thus appointed, a third party or umpire shall be appointed by one of the district courts on the joint application of the parties, the *the* decision thereby had to be final.

That the city shall bind hereself to transfer to the purchasers of each line of road as per section 1 and 2, and the right of reversion which the city now has to purchase all the property of each line at an appraised value.

That said franchises shall be sold for cash, the entire price to be paid by the purchaser or the purchasers of the franchise or franchises at the time of the delivery of said franchise or franchises. The delivery is made by the signing and delivery of the act of transfer and by placing the purchaser in actual possession.

That the purchasers of said franchises shall keep in repairs the streets and bridges through which the lines of road pass, from curb to curb, under the direction of the administrator, of improvements and the city surveyor. That the fares to be charged by said purchasers on their roads shall never exceed the amount now charged, except as provided in the specification herein referred. Each bid shall be accompanied by a deposit or
34 certified check of $50,000, as an evidence of their intention to abide by the adjudication, which amount shall be forfeited in case of failure to sign the contract; and the same shall be held as a special deposit until the final delivery of said road and appurtenances. Bidders to whom the contract is not awarded shall have their deposits returned to them on the day adjudication is made. Bidders can bid for either franchise, say, for section 1 and 2, or both, at their option. Pamp'lets containing specifications of contract can be obtained on application to the administrator of commerce. Proposals must be indorsed "bids for the franchises of the New Orleans City Railroad Company." The city reserves the right to reject any and all bids, and the sale and adjudication shall not be considered as perfected and binding upon the city of New Orleans until the purchaser or purchasers shall have delivered, paid, and deposited the full amount of the price of the bid with whomsoever may be designated by the mayor to receive the same, for and on behalf of the city, and until such deposit and payment of the price shall have been made and accepted by the council the adjudication shall not bind the city nor operate as an engagement or contract.

(Signed) J. HENRY BEHAN,
Adm'r of Commerce.

35 Specifications concerning the sale of the right of way and franchises for a term of years expiring on the 1st day of January, 1906, as per ordinances Nos. 4968 & 5020, administration series hereunto annexed of the following street railroads, of the New Orleans City Railroad Company, to wit:

Camp and Prytania, Camp and Magazine, Rampart and Dauphin, Canal Street and Metairie Ridge, to Bayou, St. John, Esplanade and Bayou Bridge lines.

SECTION FIRST.

Camp and Prytania Streets line.
Camp and Magazine Streets line.

SECTION SECOND.

Rampart and Dauphin.
Canal Street and Metairie Road to Bayou, St. John.
Esplanade and Bayou Bridge.

The Camp and Prytania, Camp and Magazine, and Rampart and Dauphin Streets lines expire on the 3d day of February, 1880. (See ordinance No. 4945 attached.)

The Canal Street and Metairie road and the Esplanade and Bayou Bridge lines, expire on the 2d day of July, 1880. The above-mentioned roads run on the following streets:

36 FIRST SECTION.

Comprises the following roads passing through the streets hereinafter named, with tracts, turnouts, and turntables, viz: The Camp and Pyrtania and Camp and Magazine lines; three tracks on Canal street, from St. Charles to Camp street; single tract on Canal street, from Magazine to Camp street; single tract on Magazine, from Canal to St. Andrew street; double tract on Magazine, from St. Andrew to Toledano street; double tract on Prytania, from Poyfaire to Toledano street; single tract on Camp, from Poyfaire to Canal street; single track on Poyfaire, from Magazine to Camp street; single tract on Toledano, from Camp to Prytania street.

SECOND SECTION.

Comprises the following roads passing through the streets hereinafter named, with the tracks, turnouts, and turntables, Rampart and Dauphin Street line; double tract on Rampart street, from Canal to Esplanade street; a single track on Dauphin, from Esplanade to Poland street; a single tract on Rampart street, from Esplanade to Poland street; a double tract on Poland street, from Dauphin to Rampart street; a double track on Dauphin
37 street, from Poland street to Caffins lane; a single track on Dauphin street, from Caffins lane to Delery street, with the right of a double track. Canal street and Metairie road to Bayou St. John; a double track on Canal street from Carondelet to Metairie road, along Metairie road to New Canal; four tracks on Canal street from St. Charles to Carondelet street; double track on Metairie ridge from New Canal to Carondelet Canal or Bayou St. John. Esplanade and Bayou Bridge line; double track on Esplanade from Rampart to Bayou St. John; double track on Esplanade from Levee to Rampart street. (See ordinance No. 2518, attached.) All these rights revert to the city at the expiration of the twenty years, to wit, the third day of February and the second day of July, 1880.

Ordinance No. 4945, *old series.*

Resolved, That the adjudication made by the controller on the 20th of January, 1860, of the right of way to establish railroads in the city of New Orleans under and by virtue of resolutions No. 4364, 4474, 4735, and 4766, to J. B. Slawson & Co., securities Henry Hart, F. Wintz, and P. Irwin, for and in consideration of $130,000 bonus offered by
38 him, be, and the same is hereby, approved, the securities accepted, and the mayor authorized to sign the necessary act or acts with said parties.

(Signed) JOHN T. MONROE,
President Board of Assistant Aldermen.

(Signed) J. O. NIXON,
President Board of Aldermen.

Approved February 3d, 1860.

(Signed) GERARD STITH, *Mayor.*

Ordinance No. 5244, *old series.*

Resolved, That the following adjudications made by the controller on the second June, 1860, be, and the same are hereby, approved and the securities accepted, viz:

First. Under resolution No. 5122, the right of way for a railroad on Canal street from Rampart street to the Metairie Bridge, to J. B. Slawson & Co., Security, Henry Hart, P. Irwin, and Frederick Wintz, for $500 bonus.

Second. Under resolution No. 5119, the right of way for a railroad on Esplanade street from Rampart street to Bayou St. John, to J. B. Slawson & Co. Security, Henry Hart, P. Irwin, and Frederick Wintz, for $500 bonus.

Resolved, further, That the mayor be, and is hereby, author-
39 ized to sign*ed* the necessary act or acts with said parties for the performance of the work.

(Signed) LEW. F. BLAKEWELL,
President Board of Assistant Aldermen.

(Signed) J. O. NIXON,
President Board of Aldermen.

Approved June 23d, 1860.

(Signed) JNO. T. MONROE, *Mayor.*

Ordinance No. 2518, *administration series.*

An ordinance granting to the City Railroad Company the right of way for a railroad on Esplanade street, to connect the Esplanade and Bayou line of the New Orleans City Railroad Company with the Levee line, and other purposes.

Be it ordained by the city council, That for and in consideration of the sum of one thousand dollars in United States currency, to be immediately paid into the city treasury, there be, and is hereby, granted to the New

Orleans City Railroad Company the right of way and privilege of constructing and laying a double track railroad on Esplanade street, to extend from the junction of Rampart to Peters or Levee streets, for the purpose of connecting the Esplanade and Bayou line with the Levee line of said company, the tracks, cars, equipments, management, and regu-
40 lations, to conform to and be identical with the roads to be connected. Said grant of right of way shall continue during the continuance of the charter of the said New Orleans City Railroad Company, and shall terminate therewith. The tra'k shall be laid in accordance with specifications to be furnished by the city surveyor.

Adopted by the council of the city of New Orleans March 3d, 1874.

Yeas: Brewster, Calhoun, Fitzenreiter, Lewis, Schneider, Stinken, Turnbull.

(Signed) LOUIS A. WILTZ, *Mayor.*

A true copy.

(Signed) DANIEL SCULLY, *Secretary.*

The purchaser or purchasers shall be bound to keep the paved and unpaved streets thr ough which said tracks pass, as well as all the bridges on said streets, in good repair and condition from curb to curb during the continuance of their privilege and right of way. They shall, on proper notification from the administrator of improvements and the city surveyor, raise, repair, and repave any or all intersections of streets when required upon lines and levels to be furnished by the city surveyor.

They shall be required to widen and deepen any or all culverts
41 and sluices to such dimensions as may be directed and required by the city surveyor. They shall be required to keep all bridges in repair and make new ones when required by the administrator of improvements and the city surveyor, on all streets through which their lines pass. The lines of said tracks within the rails shall be paved with round stone, except where square stone pavements exist or may hereafter be made, in which case the same material shall be used for paving within the rails. When the paving of the streets, where the same are paved, as well as the shelling of the streets where the same are shelled, shall be taken up for the purpose of repair, they shall be replaced in the same condition as formerly and the streets graded to a proper grade to be furnished by the city surveyor. Wherever the streets are not yet paved, the lines of the track within the rails shall be paved either with round stones or with four by five inch scantling in the best workmanlike manner, and the space between the lines of track and the gutters of the streets shall be planked with yellow pine planks three inches thick, laid on stringers of four inches thick by eight inches wide, the timber used to be of the best quality and to the entire satisfaction of the administrator of improvements and the
42 city surveyor. The rails shall be of the same pattern as those now in use. The cross-ties shall be of yellow pine 6 by eight feet long; the string-pieces of yellow pine five by eight inches, all of the best quality of lumber, and to the entire satisfaction of the administrator of improvements and city surveyor.

Should the purchaser or purchasers at any time refuse to comply with any or all the requirements of these specifications or fail to comply with

the notification of the administrator of improvements and the city surveyor, or refuse or neglect to keep the streets and bridges in good order and condition, he or they, or their authorized representative, shall be subject to a fine of $25 or thirty days' imprisonment for each and every offense, at the discretion of the court, said fine to be recoverable before the recorder of the municipal district in which the offense was committed. The fare on the Camp and Magazine line, between Canal and Toledano streets, or for any lesser distance between these points, shall not exceed five cents per passenger either way, except as hereinafter provided. The fare on the Camp and Prytania line, between Canal and Toledano streets, shall not exceed five cents per passenger either way, except as hereinafter provided.

The fare on the Rampart and Dauphin line, between Canal street
43 and the United States barracks, shall not exceed five cents per passenger either way, except as hereinafter provided. The fare on the Canal Street and Metairie Road line, from neutral ground in Canal street, between Carondelet and St. Charles, to Metairie ridge or cemeteries, shall not exceed five cents per passenger either way, or except as hereinafter provided. The fare on the Esplanade and Bayou Bridge shall not exceed five cents per passenger either way, except as hereinafter provided.

They shall further be allowed to charge five cents from the New Canal to Bayou St. John, on the Ridge line.

The style of cars used to be the same as those now in use unless some improved and advantageous pattern is introduced during the existence of this contract, when upon application to and approval by the council the same may be changed.

The cars shall be drawn by horse or mule power, and if more than one horse or mule be used for each car they shall be driven abreast. Said cars shall be run as often during the day or night as the purchasers may deem proper, but not at greater intervals than every ten minutes from daylight until 10 o'clock p. m., and every fifteen minutes from 10 o'clock
44 until 12.30 o'clock a. m., and every hour thereafter until daylight on the Camp and Magazine, the Camp and Prytania, the Rampart and Dauphin to Poland street, the Esplanade and Bayou Bridge and the Canal and Ridge line to Broad street station.

For each and every fare after 12.30 o'clock they shall be allowed to charge twenty-five cents. Said purchaser or purchasers shall annually pay into the city treasury upon the assessed value of said road and fixtures the annual tax levied upon real estate; the value of said road and fixtures to be assessed by the usual mode of assessment. The speed of said *of said* cars shall not exceed six miles per hour. All cars that may be run on said railroads between sunset and daybreak shall be provided with a good and ample head-light placed in a conspicuous position in and on said cars, and for the violation of this or any other ordinance now existing or that may hereafter be enacted in accordance with the provisions of these specifications, on the part of any officer or employee of said roads, the purchaser or purchasers shall be liable to all fines and damages arising therefrom.

The city binds herself to transfer to the purchaser or purchasers of the franchises of The New Orleans City Railroad, as herein set forth,
45 the right of reversion which the city now has to purchase all the property, cars, fixtures, and other appurtenances of each line at an appraised value, in accordance with the following section of their present contract, to wit:

"The said railroads, cars, fixtures, and other appurtenances shall revert to the city at the expiration of said twenty years, privilege on valuation to be ascertained by two disinterested persons, one to be appointed by the purchaser or purchasers, and the other by the city; and in the event of a disagreement as to said valuation between said persons a third party or umpire shall be appointed by one of the district courts, the decision thereby had to be final."

The rights of way are for street railroads carrying passengers only. It is understood that the purchaser or purchasers are allowed to make such turnouts and crossings as may be necessary on the streets through which they have the right of way on lines and levels to be furnished by the city surveyor. The city of New Orleans binds herself not to grant during the period for which said franchises are sold a right of way to any other railroad company upon the streets through which said right of way is hereby sold, unless by mutual agreement between the city and the purchaser or purchasers of these franchises.

The purchaser or purchasers are not to change any of the tracks
46 from the lines and levels now existing without the consent of the city council.

The city reserves the right to limit the running of steam trains on Canal street to any point where the council may deem it expedient and necessary in the interest of the property-holders or the community at large.

The city reserves the right to reject any and all bids, and the sale and adjudication shall not be considered as perfected and binding upon the City of New Orleans until the purchaser or purchasers shall have delivered, paid, and deposited the full amount of the price of the bid with whosoever may be designated by the mayor to receive the same for and on behalf of the city; and until such deposit and payment of the price shall have been made and accepted by the council the adjudication shall not bind the city, nor operate as an engagement or contract.

(Signed) J. HENRY BEHAN,
Administrator of Commerce.

Adopted by the council of the city of New Orleans June 3d, 1879.
Yeas: Behan, Chevalley, Glynn, Houston, Isaacson, Marks, Meally.
(Signed) I. W. PATTON, *Mayor.*

A true copy:
(Signed) ROB'T C. WOOD, *Secretary.*

47 *Contract marked No.* 1, *offered in evidence by plaintiff.—Filed Oct. 20th*, 1879.

UNITED STATES OF AMERICA,
States of Louisiana, Parish of Orleans,
City of New Orleans:

Be it known that on this thirty-first day of the month of December, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the United States the ninety-ninth, before me, Gustave Legardeur, jr., notary public, duly commissioned and sworn in, and for the parish and city aforesaid, and official notary for the city of

New Orleans, therein residing, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared the honorable Charles J. Leeds, mayor of the city of New Orleans, and herein acting in his said capacity, and James Jackson, president of the New Orleans Gas-Light Company, and herein acting in his said capacity, by virtue of a resolution of the board of directors of said company, adopted at their sitting of the 23d day of December, 1874, a certified copy whereof is hereto annexed for reference:

48

And the said Charles J. Leeds, mayor as aforesaid, declared that by virtue of the authority in him vested by ordinance No. 2916, approved on the 29th day of December, 1874, a true copy whereof is hereto annexed, he does, by these presents, grant, bargain, sell, and confirm unto the said New Orleans Gas-Light Company the contract for the lighting with gas of all the streets, levees, markets, and public squares included within the first, second, third, and fourth districts of this city, which are now or may hereafter be lighted with gas, for the term of one year, commencing on the first day of January, eighteen hundred and seventy-five, and terminating on the last day of December, eighteen hundred and seventy-five.

The said president hereby binds the said New Orleans Gas-Light Company to perform and execute said contract as follows, to wit:

STREET LAMPS.

The street lamps to be and remain, as heretofore, with all their apparel, the property of the said company, set up and kept in repair at its own expense. They shall be lighted every night from one-half hour after sunset to one-half hour before sunrise, except during the full moon quarter in each and every month, when they shall not be lighted, as is shown by the annexed schedule, signed "ne varietur," by the undersigned notary to identify the same herewith. Said lamps to be furnished with bats-wing burners, consuming two cubic feet of gas per hour, at the price of twenty-six dollars & eighty-four cents ($26.84) per lamp per annum.

49

LEVEE AND SQUARE LAMPS.

The levee and square lamps with all their apparel and services connecting them with the main pipes of the company, shall be set up as heretofore and kept in repair by the company at the expense of the city, and shall be lighted in the same manner as the street lamps.

A certain number of these lamps to be selected by the administrator of police shall be furnished with bat-wing burners, consuming four cubic feet per hour, at the price of forty-three dollars and fifty cents per lamp ($43.50) per annum, and the remainder with two feet bat-wing burners at the rate of twenty-six dollars and eighty-four cents ($26.84) per lamp per annum.

50

MARKET LAMPS.

The lamps in the public markets are to be erected and kept in repair as heretofore by the said gas company at the expense of the city, and lighted every night. They shall be furnished with the two-feet bat-wing burners

at the price of thirty dollars and thirty-four cents ($30.34) per lamp per annum.

PUBLIC BUILDINGS.

All the gas which shall be consumed within the public buildings belonging to or at the charge of the city, shall be paid for by meter as heretofore, at the same rate charged to private consumers for the time being.

The said gas company shall light, extinguish, and clean all the aforesaid street, levee, square, and market lamps at its own expense.

And it is well understood and agreed by and between the said contracting parties, that in case of neglect on the part of the said New Orleans Gas-Light Company to comply with the terms and conditions of this present contract, the said city of New Orleans reserves the right to declare this contract ipso facto null and void, without applying to a court of justice and without indemnifying the said company.

51 And it is further well understood and agreed by an' between the said contracting parties, that upon any failure on the part of the said New Orleans Gas-Light Company to comply strictly with the terms and conditions of this present contract, said company shall be deemed to be in default by the mere act of its failure.

And in consideration of the premises the said Charles J. Leeds, mayor of the said city of New Orleans, hereby binds and obligates the said city to pay to the said New Orleans Gas-Light Company or its duly qualified agent the sums of money hereinbefore specified and mentioned; said payments to be made monthly in cash.

And it is moreover well understood and agreed, by and between the said contracting parties, that the process hereinbefore stated are based upon regular monthly cash payments, and, in case of failure or inability on the part of the said city of New Orleans to pay any monthly bill within thirty days from its date, interest at the rate of seven per cent. per annum shall be added to the amount until paid.

Thus done and passed at New Orleans, in my office, the day, month, and year first above written, in the presence of Armand Pitot,

52 jr., and Ambroise G. Lapice, both of this city, competent witnesses, who have hereunto signed their names with the said parties and me, said notary, after due reading of the whole.

(Original signed)

CHARLES J. LEEDS, *Mayor.*
JAMES JACKSON, *President.*

A. PITOT, Jr.
A. G. LAPICE.

G. LEGARDEUR, JR., *Not. Public.*

A true copy of the original on file and of record in my office.
New Orleans, December 31st, 1874.
[SEAL.] (Signed) G. LEGARDEUR, JR., *Not. Public.*

Document annexed to contract.

DEPARTMENT OF POLICE,
ADMINISTRATOR'S OFFICE,
New Orleans, January 26, '75.

JAMES JACKSON,
Pres. N. O. G. L. Co.:

SIR: Yours of the 25th received; contents noted and approved by the committee.

Respectfully,
(Signed) THEO. BLANCHARD, *Secretary.*
By order adm'r.

53 *Contract marked No. 2 offered in evidence by plaintiff.—Filed Oct 20th*, 1879.

UNITED STATES OF AMERICA,
State of Louisiana, Parish of Orleans, City of New Orleans:

Be it known that on this seventeenth day of the month of December, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth, before me, Gustave Legardeur, jr., a notary public in and for the parish and city aforesaid, and official notary for the city of New Orleans, duly commissioned and sworn, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared the honorable Charles J. Leeds, mayor of the city of New Orleans, and herein acting in his said capacity, under and by virtue of ordinance No. 3333, administration series, adopted by the city council on the 14th day of December, 1875.

And also came and appeared James Jackson, of this city, herein
54 acting for and in the name and as president of the New Orleans Gas-Light Company, under and by virtue of a resolution of the board of directors of said company, adopted at their sitting of the 15th of December, 1875, a certified copy whereof is hereto annexed for reference.

And the said mayor, Charles J. Leeds, declared in his said capacity that by virtue of the authority in him vested by said ordinance No. 3333, administration series, adopted by the city council on the 14th day of December, 1875, a certified copy whereof is hereto annexed for reference, he does by these presents grant, bargain, sell, and confirm unto the said New Orleans Gas-Light Company, the said James Jackson as president thereof accepting for said company, the contract for the lighting with gas of all the streets, levees, markets, and public squares, included within the first, second, third, and fourth districts of this city, which are now or may hereafter be lighted with gas, for the term of two years, commencing on the first day of January, eighteen hundred and seventy-six, and terminating on the last day of December, eighteen hundred and seventy-seven; the said mayor Leeds hereby expressly reserving for the city of New Or-
leans the right at any time before the expiration of this contract of
55 increasing the burners to three feet per hour on all the lamps at the following rates, to wit: street and levee lamps at the rate of forty dollars each per annum; and market lamps at the rate of forty-five dollars each per annum.

The said James Jackson, as president aforesaid, hereby binds the said New Orleans Gas-light Company to perform and execute the said contract as follows, to wit:

STREET LAMPS.

The street lamps to be and remain as heretofore, with all their apparel, the property of the said company, set up and kept in repair at its own expense. They shall be lighted every night from one-half hour after sunset to one-half hour before sunrise, except during the full-moon quarter in each and every month, and in accordance with the schedule to be agreed upon hereafter by the said parties hereto. Said lamps to be furnished with bat's wing burners consuming two cubic feet of gas per hour, at the price of twenty-nine dollars and seventeen cents ($29.17) per lamp per annum.

LEVEE AND SQUARE LAMPS.

The levee and square lamps, with all their apparel and services connecting them with the main pipes of the company, shall be set up
56 as heretofore, and kept in repair by the company at the expense of the city, and shall be lighted in the same manner as the street lamps.

A certain number of these lamps, to be selected by the administrator of police, shall be furnished with bat'swing burners consuming four cubic feet per hour, at the price of forty-five dollars and seventy-five cents (45.75) per lamp per annum, and the remainder with two-feet bat's wing burners, at the rate of twenty-nine dollars and seventeen cents (29.17) per lamp per annum.

MARKET LAMPS.

The lamps in the public markets are to be erected and kept in repair as heretofore by the said gas company, at the expense of the city, and lighted every night. They shall be furnished with two-feet bat's wing burners, at the price of thirty-three dollars and forty-seven cents (33.47) per lamp per annum.

PUBLIC BUILDINGS.

All the gas which shall be consumed within the public buildings belonging to or at the charge of the city shall be paid for by meter as heretofore, at the same rate charged to private consumers for the time being.
57 The said New Orleans Gas-Light Company shall light, extinguish, and clean all the aforesaid street, levee, square, and market lamps at its own expense.

And it is well understood and agreed by and between the said contracting parties that, in case of neglect on the part of the said New Orleans Gas-Light Company to comply with the terms and conditions of this present contract, the said city of New Orleans expressly reserves the right to declare this contract, ipso facto, null and void, without applying to a court of justice and without indemnifying the said company.

And it is further well understood and agreed by and between the said

contracting parties that upon any failure on the part of the said New Orleans Gas-Light Company to comply strictly with the terms and conditions of this present contract, said company shall be deemed to be in default by the mere act of its failure.

And in consideration of the premises the said Charles J. Leeds, mayor of the said city of New Orleans, hereby binds and obligates the said city to pay to the said New Orleans Gas-Light Company or its duly qualified agent the sums of money hereinbefore specified and mentioned, said payments to be made monthly in cash.

58 And it is moreover well understood and agreed by an' between the said contracting parties that prices hereinbefore stated are based upon regular monthly cash payments, and in case of failure or inability on the part of the said city of New Orleans to pay any monthly bill within thirty days from its date, interest at the rate of seven per cent. per annum shall be added to the amount until paid.

Thus done and passed in New Orleans, at my office, the day, month, and year first above written, in the presence of Armand Pitot, jr., and Ambroise G. Lapice, competent witnesses, who have hereunto signed their names with the said parties and me, said notary, after reading the whole.

(Original signed.)

CHARLES J. LEEDS, *Mayor.*
JAMES JACKSON, *President.*

A. PITOT, JR.
A. G. LAPICE.

G. LEGARDEUR, *Not. Public.*

A true copy of the original on file and of record in my office.
New Orleans, December 17th, 1875.
[SEAL.] (Signed) G. LEGARDEUR,
Notary Public.

59 *Petition in the case of The New Orleans Gas-Light Company vs. The City of New Orleans, No. 45064 of the docket of the fourth district court, offered in evidence by plaintiff.*

To the honorable the judge of the fourth district court for the parish of Orleans:

The petition of The New Orleans Gas-Light Company, a corporation created by the laws of the State of Louisiana, located and domiciled in the city of New Orleans and State of Louisiana, and engaged in the city of New Orleans aforesaid in the business of making and vending of gas-lights in the said city of New Orleans, respectfully represents:

That the city of New Orleans, a body corporate created by the laws of the State of Louisiana, located and domiciled in the parish of Orleans, in the State of Louisiana, is justly and truly indebted unto your petitioner, as is hereinafter fully set forth.

Petitioner respectfully represents that on the thirty-first day of December, in the year eighteen hundred and seventy-five, by notarial act passed before Gustave Legardeur, notary, in the city of New Orleans, be-

60 tween the said city of New Orleans and your petitioner, the said City of New Orleans, defendant, thereby did grant, bargain, sell, and confirm unto your petitioner the contracts for the lighting with gas all of

the streets, levees, markets, public squares, and public buildings included within the first, second, third, and fourth districts of the said city of New Orleans aforesaid which were then or might thereafter be lighted with gas, for the term, by the said contract of the thirty-first day of December, A. D. eighteen hundred and seventy-four, from the first day of January, A. D. eighteen hundred and seventy-five, to the 31st day of December, eighteen hundred and seventy-five, and for the term, by the second contract on the 17th day of December, eighteen hundred and seventy-five, for the term commencing on the first day of January, A. D. eighteen hundred and seventy-six, and terminating on the last day of December, A. D. eighteen hundred and seventy-seven. That the respective prices for the lighting of street lamps, levee and square lamps, and market lamps, mentioned and referred to in said contracts are set forth in said contracts, and for the gas which was to be consumed in the public buildings of the city of New Orleans, is stipulated to be paid by meter, at the same rate charged private consumers, for the time being, all of which will more fully
61 appear by the said two notarial acts passed before said G. Legardeur, on the thirty-first day of December, A. D. eighteen hundred and seventy-four, and on the seventeenth day of December, A. D. eighteen hundred and seventy-five, which are hereunto annexed, and made part of this petition, and which are marked Exhibit Nos. 1 and 2.

That petitioner has well and truly performed, fulfilled, and kept all things therein contained in the said two contracts aforesaid, on its part and behalf to be performed and fulfilled or kept according to their terms, effect, time, true intent, and meaning thereof.

That your petitioner has lit with gas all the streets, levees, markets, public squares, and public buildings specified and referred to in said two contracts since the first day of January, A. D. eighteen hundred and seventy-five, up to the thirty-first day of December, A. D. eighteen hundred and seventy-seven.

That the said City of New Orleans, defendant herein, owes petitioner for gas furnished as aforesaid for the months of July, August, and December of the year eighteen hundred and seventy-five, and for the months of July, August, September, October, November, and December of the year eighteen hundred and seventy-six, and for the months of Sep-
62 tember, October, November, and December of the year eighteen hundred and seventy-seven, as will more fully appear by the exhibits marked Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, & 15, and which contain the items, dates, particulars, and details of gas furnished by your petitioner to the said City of New Orleans, defendant herein, under the aforesaid contracts, and which said gas the said City of New Orleans has consumed. The said exhibits, marked Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, are made a part hereof.

That the prices and sums charged therein for lighting the said street lamps, levee and square lamps, are those agreed on and specified in the said contracts and exhibits marked Nos. 1 and 2; and the prices for the gas consumed in the public buildings and other places referred to in said , are at the same rates as those charged to the private consumers of your petitioner.

That from time to time your petitioner was forced, pursuant to said contracts, to make certain repairs to levee, square, and market lamps, furnish

glasses, tubes, burners, &c., and expended money, labor, and time in the doing of the above, which are fully set forth and particularized in the said exhibits which are marked Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15. That your petitioner at the end of each and every month furnished to the said
63 City of New Orleans the respective accounts for each and every month and which are in part the exhibits aforesaid, marked Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, and the said City of New Orleans, through its authorized and proper officers and agents, and through its council after said amounts were furnished, at the end of each and every month, examined the same and found the same to be correct in every respect; that they were afterwards approved and ratified, and the said acknowledgements are further evidenced and shown by the action of said council, and by the adoption of respective ordinances, from time to time passed and approved and signed by the mayor of the city of New Orleans, as will more fully appear by the duly authenticated copies of the said ordinances, which are hereto annexed and made a part of this petition, and marked Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28; that on the last day of each and every month and on the first of each succeeding month your petitioner made demand of the City of New Orleans for payment for the respective amounts of each and every month for said respective monthly bills, but that the said City of New Orleans, defendant, neglected and refused to pay said bills to your petitioner, and by clauses contained respectively in said two contracts marked Exhibts 1 &
64 2, said City of New Orleans specially undertook to pay monthly each of the monthly bills, and in case of failure or inability on the part of the said City of New Orleans to pay any monthly bill within thirty days from its date, interest at the rate of seven per cent. per annum shall be added to the amount until paid.

That the said City of New Orleans, did fail and neglect to pay the said monthly bills within thirty days after the respective dates of said monthly bills, although thereunto specially requested as aforesaid, and put in default and the said City of New Orleans still neglects and refuses to pay the said bills or any parts thereof as hereinbefore stated.

That the said exhibits marked No. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 show the indebtedness of said City of New Orleans, and which are for the months in the years specially set forth therein, and which are for the months and bills that said City of New Orleans has wholly failed to pay to your petitioner; that the said City of New Orleans is bound to pay to your petitioner interest at the rate of seven per cent. per annum thereon, pursuant to the clause in the said two contracts.

That said City of New Orleans, defendant herein in the exhibits marked 3, 4, and 5, is credited with the amounts of moneys which said City of New Orleans, defendant, has paid on account of the
65 said months of July, August, and December of the year eighteen hundred and seventy-five, and as will more fully appear by the said exhibits marked Nos. 3, 4, and 5.

That the total amount which is due by the said City of New Orleans is the sum of one hundred and thirteen thousand three hundred and sixty-eight $\frac{85}{100}$ dollars ($113,368.85), with interest at the rate of seven per cent. per annum on the respective amounts of each monthly bill, and which sums for interest will be prayed for in the prayer for this petition and

from the respective dates, the said city of New Orleans having neglected and refused to pay said respective bills, although due demand for payment were regularly made of it at the end of each and every month.

That the said council of the said City of New Orleans, and all of the proper officers and agents of the City of New Orleans, and the said City of New Orleans, although thereunto amicably demanded to pay the sums for which they are indebted as aforesaid, with interest as aforesaid, refuse to pay your petitioner the same or any portion thereof.

Wherefore The New Orleans Gas-Light Company, your petitioner, prays that the said City of New Orleans, defendant herein, be duly cited to appear and answer this petition, and that after due proceedings
66 that said City of New Orleans, defendant, be condemned to pay to your petitioner the sum of one hundred and thirteen thousand three hundred and sixty-eight $\frac{85}{100}$ dollars ($113,368.85), with interest at the rate of seven per cent. per annum on the hereinafter-named sums, to wit, until paid on the sum of four thousand and five $\frac{94}{100}$ dollars (4,005.94) from the first day of September, in the year 1875, and on the sum of four thousand two hundred and fourteen $\frac{80}{100}$ dollars (4,214.80) from the first day of October, in the year 1875, and on the sum of five thousand and three $\frac{81}{100}$ dollars (5,003.81) from the first day of February, in the year 1876, and on the sum of eight thousand six hundred and eighty-four $\frac{61}{100}$ dollars ($8,684.61) from the first day of September, in the year 1876, and on the sum of nine thousand one hundred and forty-seven $\frac{04}{100}$ dollars (9,147.04) from the first day of October, in the year 1876, and on the sum of nine thousand three hundred and thirty-eight $\frac{15}{100}$ dollars (9,338.15) from the first day of November, in the year 1876, and on the sum of nine thousand seven hundred and fifty-nine $\frac{57}{100}$ dollars (9,759.57) from the first day of December, in the year 1876, and on the sum of ten thousand two hundred and thirty-four $\frac{56}{100}$ dollars ($10,234.56) from the first day of January, in the year 1877, and on the sum of ten thousand
67 eight hundred and eighty-two $\frac{87}{100}$ dollars (10,882.87) from the first day of February, in the year 1877, and on the sum of nine thousand seven hundred and five $\frac{53}{100}$ dollars (9,705.53) from the first day of November, in the year 1877, and on the sum of ten thousand two hundred and sixty-nine $\frac{07}{100}$ dollars (10,269.07) from the first day of December, in the year 1877, and on the sum of ten thousand eight hundred and seventy-four $\frac{69}{100}$ dollars (10,874.69) from the first day of January, in the year 1878, and on the sum of eleven thousand two hundred and forty-eight $\frac{21}{100}$ dollars (11,248.21) from the 1st day of February, in the year 1878, until paid, and petitioner prays for all further and general relief which the nature of the case may require.

(Signed) J. AD. ROZIER,
" VALLÉ J. ROZIER,
Attorneys for New Orleans Gas-Light Company.

Answer in case 45064.—*Filed May 20th*, 1878.

Fourth dist court for the parish of Orleans.

NEW ORLEANS GAS-LIGHT COMPANY
vs.
CITY OF NEW ORLEANS. } No. 45064.

Now comes the City of New Orleans, and for answer to plaint-
68 iff's petition, denies all and singular the allegations thereof.

Wherefore she prays to be hence dismissed with costs, and for general relief.

(Signed) B. F. JONAS,
City Attorney.

Judgment in case 45064.

Fourth dist. court for the parish of Orleans.

NEW ORLEANS GAS-LIGHT COMPANY
vs.
THE CITY OF NEW ORLEANS. } No. 45064.

This case came on this day for trial—J. Ad. Rozier & Vallé J. Rozier, of counsel for plaintiff; B. F. Jonas, city attorney, for defendant—when, after hearing pleadings and evidence, and the court, considering the law and evidence to be in favor of plaintiff, the New Orleans Gas-Light Company, and against defendant, the City of New Orleans, for the sum of one hundred and thirteen thousand three hundred and sixty-eight $\frac{85}{100}$ dollars ($113,368.85) with interest at the rate of seven per cent. per annum until paid on the hereinafter named sums, to wit, on the sum of four thousand and five $\frac{94}{100}$ dollars (4,005.94) from the first day of September, in
69 the year 1875, and on the sum of four thousand two hundred and fourteen $\frac{80}{100}$ dollars (4,214.80) from the first day of Oct., in the year 1875, and on the sum of five thousand and three $\frac{81}{100}$ dollars (5,003.81) from the first day of February, in the year 1876, and on the sum of eight thousand six hundred and eighty-four $\frac{61}{100}$ dollars (8,684.61) from the first day of September, in the year 1876, and on the sum of nine thousand one hundred and forty-seven $\frac{04}{100}$ dollars (9,147.04) from the first day of October, in the year 1876, and on the sum of nine thousand three hundred and thirty-eight $\frac{15}{100}$ dollars (9,338.15) from the 1st day of November, in the year 1876, and on the sum of nine thousand seven hundred and fifty-nine $\frac{57}{100}$ dollars (9,759.57) from the first day of December, in the year 1876, and on the sum of ten thousand two hundred and thirty-four $\frac{56}{100}$ dollars (10,234.56) from the first day of January, 1877, and on the sum of ten thousand eight hundred and eighty-two $\frac{81}{100}$ dollars (10,882.81) from the first day of February, in the year 1877, and on the sum of nine thousand seven hundred and five $\frac{53}{100}$ dollars (9,705.53) from the first day of November, in the year 1877, and on the sum of ten thousand two hundred and sixty-nine $\frac{07}{100}$ dollars (10,269.07) from the first day of December, in the year 1877, and on the sum ten thou-
70 sand eight hundred and *and* seventy-four $\frac{69}{100}$ dollars (10,874.69) from the first day of January, in the year 1878, and on the sum of eleven thousand two hundred and forty-eight $\frac{71}{100}$ dollars (11,248.71) from the first day of February, in the year 1878, until paid, and for all costs of suit.

Judgment rendered June 13th, 1878.
Judgment signed June 19th, 1878.

(Signed) W. T. HOUSTON,
Judge Fourth District Court.

Bill marked No. 1, offered in evidence by plaintiff.—Filed October 20th, 1879.

NEW ORLEANS, *July 31st*, 1875.

City of New Orleans to New Orleans Gas-Light Co.

For gas supplied during the month of July, 1875, viz:

To lamps:

40 levee lamps, @ 3.22		128 80	
216 market " @ 2.30		496 80	
3,327 street " @ 2.03		6,753 81	
3,583 public lamps		7,379 81	
To meters:			
City hall..... Lobby...	35,600 feet.		
Front....	400 "		
Rear.....	1,200		
	36,200 cub. feet.		
Recorder's court. 2d district.....	3,700		
4th "	3,700		
	43,600		
71 Amount brought forward...	43,600 c. f.		$7,379 41
Davidson's court	34,400 "		
Parish prison.....	78,900 "		
District courts	15,900 "		
Boys' high school.....	900 "		
City water works.....	700		
" work house	3,800		
	178,200		
Cubic feet, @ 4.00.....		712 80	
Less discount for cash 12½ %		89 10	
			623 70
For material supplied in repairs of city lamps:			
10 side glasses 18c., $1.80, 6 top glasses .72.....		2 52	
1 tube 15c., 4 burners, @ 25c. each, 1.00.....		1 15	
			3 67
Repairing 2 lamps in Poydras market.....		1 50	
" 2 " " French meat market.....		3 60	
			5 10
			8,011 88
Less received in part payment Aug 20th, 1875.....			4,005 94
Amount unpaid			4,005 94
Add interest, @ 7 % 962 days, to May, 1, '78.....			749 33
			$4,755 27

(Exhibit 3.)

(Written across the face in red ink:)

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The balance as shown herein of $4,755.27, certifed to be correct.
(Signed) J. G. BROWN,
Administrator of Public Accounts.

Bill marked number 2, offered in evidence by plaintiff.—Filed October 20th, 1879.

NEW ORLEANS, *Aug. 31st*, 1875.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of August, 1875, viz:

To lamps:

72	40 levee lamps, @ 3.51		140 40	
	216 market " @ 2.40		518 40	
37,327	street " @ 2.18		7,252 86	
				7,911 66
3,583	public lamps.			

To meters:

City hall	Lobby	30,900	
	Front	1,800	
	Rear	200	
		32,900 cub. feet.	
Recorders' courts.	2d district	3,500	
	4th district	3,000	
Davidson's court		25,400	
Parish prison		65,500	
District court		11,600	
Boys' high school		800	
City water works		600	
" work-house		3,300	
City work house		146,600 c. feet, @ 4.00.	586 40	
Less discount for cash 12½ %			73 30	
				513 10

For material supplied in repairs of city lamps:

11 slide glasses, @ 18c	1 98	
1 tube, 15c., 8 top glasses, @ 12c., 96	1 11	
7 burners, @ 25c	1 75	
		4 84
		8,429 60
Less received in part payment, Sept. 2, '75		4,214 80
Amount unpaid		4,214 80
Add interest (7 %) 932 days to May 1st, 1878		763 81
		$4,978 61

(Written across the face in red ink:)

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The balance as shown herein of $4,978.61, certified to be correct.
(Signed) J. G. BROWN,
Administrator of Public Accounts.

73 *Bill marked No. 3 offered in evidence by plaintiff.—Filed Oct. 20th*, 1879.

NEW ORLEANS, *Decem. 31st*, 1875.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of December, 1875, viz:

To lamps:			
40 levee lamps, @ 4.13		165 20	
216 market " @ 2.85		615 60	
3,327 street " @ 2.50		8,317 50	
			$9,098 30
3,583 public lamps.			
To meters:			
City hall { Lobby	59,200		
City hall { Front	4,800		
City hall { Rear	4,300		
	68,300 cub. feet.		
Recorders' court { 2d district	5,500		
Recorders' court { 4th district	2,900		
Davidson's court	46,700		
Parish prison	25,900		
District courts	41,800		
Boys' high school	5,100		
Girls' " "	1,100		
City water works	1,300		
" work-house	9,000		
	256,600 cub. feet, @ 4.00,	$1,030 40	
Less discount for cash 12½ %		128 80	
			901 60
For material supplied in repairs of city lamps:			
2 side glasses, @ 18c		4 30	
20 top do. 12c		2 40	
		6 72	
		6 72	9,999 90
74 Amount brought forward		6 72	9,999 90
4 burners, @ 25c		1 00	
			7 72
			$10,007 62

Less received in part payment June 16, '76		5,003 81
Amount unpaid		5,003 81
Add interest, @ 7 %, 814 days, to May 1st, 1878		791 99
		$5,795 80

(Written across the face in red ink :)

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The balance as shown herein of $5,795.80 certified to be correct.
(Signed) J. G. BROWN,
Administrator of Public Accounts.

Bill marked No. 4 offered in evidence by plaintiff.—Filed Oct. 30th, 1879.

NEW ORLEANS, *July 31st*, 1876.

City of New Orleans to the New Orleans Gas-Light Co.

To gas supplied during the month of July, 1876, viz :

To lamps :			
40 levee lamps, @ $3.32		132 80	
216 market lamps, @ $2.42		522 72	
3,332 street " @ $2.20		7,330 40	
			$7,985 92

3,588 public lamps.

To meters :

City hall { Lobby	36,600		
Front	8,000		
Rear	2,700		
	47,300 cub. feet.		
Recorders' court { 2d district	2,600		
4th "	2,700		
Davidson's court	32,000		
Parish prison	78,000		
District courts	19,100		
Boys' high school	900		
City work-house	700		
" water-works	6,400		
75	189,900 cub. feet, @ 4.00	759 60	
Less discount for cash, 12½ %		94 95	
			664 65
For materials supplied in repairs of city lamps :			
10 side glasses, @ 18c		1 80	
7 top glasses, @ 12c		84	
5 burners, @ 25c., 1.25 ; 1 copper lantern, 12.00		13 25	
			15 89

To materials & labor supplied in repairs of 1 lamp in meat market, 2.80	2 80	
1 lamp in Poydras market	15 35	
		18 15
		$8,684 61
Add interest, 7%, 602 days, to May 1st, 1878		1,016 58
		$9,701 19

(Written across the face in red ink:)

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount as shown herein, $9,701.14, certified to be correct.

(Signed) J. G. BROWN,
Administrator of Public Acc'ts.

Bill marked number 5, offered in evidence by Plaintiff.—Filed Oct. 20th, 1879.

NEW ORLEANS, *Aug. 31st*, 1876.

City of New Orleans, to New Orleans Gas-Light Co.

For gas supplied during the month of August, 1876, viz:

To lamps:			
40 levee lamps, @ 3.60		144 00	
216 market " " 2.56		552 96	
3,332 street " " 2.33		7,763 56	
			8,460 52
To meters:			
City hall { Lobby	35,300		
City hall { Front	7,100		
City hall { Rear	2,600		
76			
Recorder's court { 2d district	3,400		
Recorder's court { 4th "	1,900		
Davidson's court	32,500		
Parish prison	80,500		
District courts	19,900		
Boys' high school	1,300		
City water works	600		
" work-house	5,200		
	190,300 cub. fe't, @ 4.00	761 20	
Less discount for cash, 12½ %		95 15	
			666 05

For materials supplied in repairs of city lamps:		
19 side glasses, @ 18c., 3.42; 15 top glasses, @ 12c., 1.80	5 22	
5 burners, @ 25c	1 25	
		6 47
For material and labor repairing lamp in St. Mary's market		14 00
		$9,147 04
Add interest, 7 %, 572 days, to May 1, '78		$1,017 35
		$10,164 39

(Written across the face in red ink:)

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount shown herein, $10,164.39, certified to be correct.
(Signed) J. G. BROWN,
Administrator Public Accounts.

Bill marked number 6, offered in evidence by plaintiff.—Filed October 20th, 1876.

NEW ORLEANS, *September 30th*, 1876.

City of New Orleans to Gas-Light Co.

For gas supplied during the month of September, 1876, viz:

To lamps:			
40 levee lamps, @ 3.74		149 60	
216 market " " 2.72		587 52	
3,332 street " " 2.40		7,996 80	
			8,733 92
77 To meters:			
City hall.. Lobby	31,900		
Front	4,000		
Rear	2,500		
	38,400		
Recorder's courts. 2d district	3,200		
4th district	300		
Davidson's court	27,700		
Parish prison	75,300		
District courts	16,600		
Boys' high school	900		
City water-works	600		
" work-house	4,800		
167,800 cub. feet, @ $4.00		671 20	
Less discount for cash, 12½ %		83 90	
			587 30

To materials supplied in repairs of city lamps:

11 side glasses, @ 18c	1 98	
10 top glasses, @ 12c	1 20	
1 copper lantern, $12; 7 burners, 25, 1.75	13 75	
		16 93
		9,338 15
Add interest, 7 %, 541 days, to May 1st, '78	982 32	
		$10,320 47

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount as shown herein, $10,320.47, certified to be correct.
(Signed) J. G. BROWN,
Admin'r Public Accounts.

Bill marked number 7 offered in evidence by plaintiff.—Filed Oct. 20th, 1879.

NEW ORLEANS, *Oct. 31st*, 1876.

City of New Orleans to New Orleans Gas-Light Co.

78 For gas supplied during the month of October, 1876, viz:

To lamps:

40 levee lamps, @ 3.90	156 00	
216 market " " 3.02	652 32	
3,332 street " " 2.47	8,230 04	
3,588 public lamps		$9,038 36

To meters:

City hall.. Lobby	39,600	
City hall.. Front	2,400	
City hall.. Rear	2,700	
	44,700 cub. feet.	
Recorder's court. 2d district..	2,900	
Recorder's court. 4th district..	3,200	
Davidson's court	35,100	
Parish prison	86,600	
District courts	21,300	
Boys' high school	1,200	
City water works	600	
" work-house	7,200	
202,800 cub. feet @4.00..	811 20	
Less discount for cash, 12½ %	101 40	
		709 80

For materials supplied in repairing city lamps:

1 globe, 2.50; 5 burners, 25c., 1.25	3 75	
11 side flames, @ 18c	1 98	
14 top glasses, @ 12c	1 68	
		7 41
For cost of repairing lamps in Magazine market		4 00
		9, 759 57
Add interest, 7 %, 511 days, to May 1st, 1878		969 72
		$10, 729 29

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount as shown within, $10,729.29, certified to be correct.
(Signed) J. G. BROWN,
Administrator Public Accounts.

79 *Bill marked number 8, offered in evidence by plaintiff.—Filed October 20th*, 1879.

NEW ORLEANS, *Nov. 30th*, 1876.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of November, 1876, viz:

To lamps:			
40 levee lamps, @ $4.12		164 80	
216 market " " 3.12		673 92	
3,333 street " " 2.57		8, 565 81	
3,589 public lamps			$9, 404 53
To meters:			
City hall. Lobby	48, 800		
City hall. Front	2, 100		
City hall. Rear	3, 600		
	54, 500 c. feet.		
Recorder's court. 2d district	3, 500		
Recorder's court. 4th district	2, 000		
Davidson's court	45, 800		
Parish prison	80, 900		
District courts	37, 700		
Boys' high school	1, 400		
City water works	800		
" work house	9, 300		
	230, 900 c. feet, @ 4.00	923 60	
Less discount for cash 12½ %		115 45	
			808 15

For materials furnished in repairs of city lamps:

80	1 globe, 2.50; 1 copper lantern, 12.00.....	14 50	
	22 side glasses, @ 18c., 3.96; 6 burners, 25, 1.50.....	5 46	
	16 top glasses, @ 12c.....	1 92	
			21 88
			10, 234 56
	Add interest, 7 %, 480 days, to May 1st, 1878.....		955 22
			$11, 189 78

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount shown herein, $11,189.18, certified to be correct.
(Signed) J. G. BROWN,
Adm'r of Public Accounts.

Bill marked number 9, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.

NEW ORLEANS, *Decem. 31st*, 1876.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of December, 1876, viz:

To lamps:

40 levee lamps, @ 4.31		172 40	
216 market " @ 3.27		706 32	
3,336 street " @ 2.68		8, 940 48	
3,592 public lamps.....			9, 819 20

To meters:

City hall.	Lobby.....	57, 200	
	Front.....	2, 900	
	Rear.....	4, 300	
		64, 400 c. feet.	
Recorder's court.	2d district...	4, 500	
	4th district...	3, 000	
Davidson's court.....		53, 400	
Parish prison.....		110, 700	
District courts.....		42, 000	
Boys' high school		1, 500	
City water works.....		1, 700	
" work house...		10, 400	
81 291,600 c. feet, @ 4.00.....		1, 166 40	
Less discount for cash 12½ %.....		145 80	1, 020 60

For materials supplied in repairs of city lamps:

2 copper lanterns, @ 12.00.....		24 00	

1 globe, 2.50; 38 burners, 25c., 9.50	12 00	
19 side glasses, @ 18c	3 42	
15 top glasses, @ 12c	1 80	
		41 22
For material and labor repairing 1 lamp in French meat market		1 85
		10,882 87
Add interest (7 %), 449 days, to May 1st, 1878		950 13
		$11,833 00

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, '78.

The amount shown herein, $11,833.00, certified to be correct.
(Signed) J. G. BROWN,
Adm'r Public Accounts.

Bill marked number 10, *offered in evidence by plaintiff.—Filed Oct. 20th,* 1879.

NEW ORLEANS, *Sept. 30th,* 1877.

City of New Orleans to the New Orleans Gas-Light Co.

To gas furnished during the month of September, 1877, viz:

To lamps:			
40 levee lamps, @ 3.74		149 60	
216 market " " 2.72		587 52	
3,340 street " " 2.40		8,016 00	
3,596 public lamps			8,753 12
To meters:			
City hall. Lobby	42,800		
City hall. Front	800		
City hall. Rear	3,000		
	46,600 c. feet.		
Recorder's court. 2d district	400		
Recorder's court. 4th district	400		
82 Davidson's court	42,400		
Police stations	76,500		
Parish prison	92,700		
District court	36,100		
Boys' high school	3,300		
City water works	800		
" work house	8,900		
308,100 c. feet, @ 3.00			924 30

For material supplied in repairs of lamps in Dryade market	1 50	
Meter setting at 41 Burgundy	3 55	
		5 05
For material supplied in repairs of city lamps:		
23 side glasses, @ 18c., 4.14; 21 top glasses, 2.52	6 66	
1 tube, 15c.; 5 burners, 25, 1.25	1 40	
Repairing 3 lanterns in Jackson Sqr	15 00	
		23 06
		$9,705 53
Add interest, 181 days, to May 1st, 1878		341 58
		10,047 11

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, '78.

The amount as shown herein, $10,047.11, certified to be correct.
(Signed) J. G. BROWN,
Adm'r Public Accounts.

Bill marked number 11, *offered in evidence by plaintiff.—Filed October* 20*th*, '1879.

NEW ORLEANS, *Oct.* 31*st*, 1877.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of October, 1877, viz:

To lamps:			
40 levee lamps, 3.90		156 00	
216 market " 3.02		652 32	
3,340 street " 2.47		8,249 80	
3,602 public lamps			9,058 12
			9,058 12
83 Oct. 10. 6 levee lamps—Canal & Levee—21 nights			15 85
To meters:			
City hall. Lobby	46,360		
Front	3,600		
Rear	3,700		
	53,600 c. feet.		
Recorder's court. 2d district	1,700		
4th district.	4,200		

Police stations.....	81,500	
Davidson's court.....	50,900	
Parish prison.....	82,200	
District courts.....	34,300	
Boys' high school.....	7,000	
City water-works.....	800	
" work-house.....	7,900	
524,100 c. feet, @ 3.00.....		972 30
For material supplied in repairs of city lamps:		
15 side glasses, @ 18c., 2.70.....	2 70	
10 top glasses, @ 12c., 1.20; 6 burners, 25, 1.50..	2 70	
		5 40
For cost of setting meter for clock tower, do. harbor station.....	10 65	
1 new meter cock at parish prison.....	2 40	
Repairing 2 leaks—lamps.....	4 35	
		17 40
For cost of extension of main across the levee, foot of Canal street, as per agreement.....	200 00	
		200 00
		10,269 07
Add interest 7 % 151 days to May 1st, 1878.....		301 51
		$10,570 58

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount as shown herein, $10,570.58, certified to be correct.
(Signed) J. G. BROWN,
Adm'r Public Accounts.

84 *Bill marked number* 12, *offered in evidence by plaintiff.—Filed Oct. 20th*, 1879.

NEW ORLEANS, *Nov. 30th*, 1877.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of November, 1877, viz:

To lamps:		
46 levee lamps, 4.12.....	189 52	
216 market lamps, 3.12.....	673 72	
3,340 street " 2.57.....	8,583 80	
		9,447 24

3,602

To meters:

City hall.	Lobby	53,100	
	Front	2,300	
	Rear	3,200	
		58,600 c. feet.	
Recorder's court.	2d district	2,900	
	4th district	3,600	
Police stations		97,300	
Davidson's court		56,300	
Parish prison		95,300	
District courts		69,500	
Boys' high school		3,300	
City water-works		1,000	
" work-house		7,300	
Clock tower		3,700	
		398,800, @ 3.00	1,196 41

For cost 6 new levee lamps foot of Canal street, 37.50 ..... 225 00

85 For materials supplied in repairs of city lamps:

10 side glasses, @ 18c	1 80	
10 top glasses, @ 12c	1 20	
1 globe, 1.50; 2 tubes, 15c., 30	1 80	
5 burners, 25, 1.25	1 25	
		6 05
		10,874 69
Add interest (7 %), 120 days, to May 1, '78		253 74
		11,128 43

(Written across the face in red ink:)

DEPARTMENT PUBLIC ACCOUNTS,
New Orleans, June 10th, '78.

The amount as shown herein, $11,128.43, certified to be correct.
(Signed) J. G. BROWN,
Adm'r Public Accounts.

Bill marked number 13, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.

NEW ORLEANS, *Decem. 31st*, 1877.

City of New Orleans to the New Orleans Gas-Light Co.

For gas supplied during the month of December, 1877, viz:

To lamps:			
46 levee lamps,	4.31	198 26	
216 market "	3.27	706 32	
3,340 street "	2.68	8,951 20	
3,602 public lamps			9,855 78

To meters:

City hall	Lobby	70,600		
	Front	6,700		
	Rear	3,900		
			81,200	cub. feet.
Recorders' courts.	2d district		4,000	"
	4th district		5,100	"
Police stations			98,400	
Clock tower			5,600	
Davidson's court			71,700	
Parish prison			92,000	
	District court		85,000	
86	Boys' high school		5,500	
	City water works		1,300	
	" work-house		11,000	
			461,000 c. feet, @	3 00	1,383 00

For materials supplied in repairs of city lamps:

20 side glasses, 18c	3 60	
14 top glasses, 12	1 68	
1 tube, 15c.; 2 globes, 1.50, $3.00	3 15	
4 burners, @ 25c	1 00	
		9 43
		$11,248 21
Add interest, 7 %, 89 days, to May 1st, 1878		194 65
		$11,442 86

(Written across the face in red ink:)

DEPARTMENT OF PUBLIC ACCOUNTS,
New Orleans, June 10th, 1878.

The amount as shown herein, 11,442.86, certified to be correct.

(Signed) J. G. BROWN,
Adm'r Pub. Accounts.

Written demand marked C, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.

NEW ORLEANS, *Oct. 23d*, 1878.

Mr. J. G. BROWN,
Administrator of Public Accounts:

DEAR SIR: Herewith I hand you a certified copy of the judgment recovered by the New Orleans Gas-Light Company, plaintiff, against the City of New Orleans, defendant, in the fourth district court for the parish of Orleans and State of Louisiana, numbered 45064 on the docket of said court.

I herewith also hand you a copy of the petition of said plaintiff

87 and a copy of the answer of said defendant in said cause, together with the certificate of the clerk of said court, that the said judgment is final and executory. The sheriff's costs amount to two $\frac{75}{100}$ dollars and the clerk's costs amount to twenty-two $\frac{10}{100}$ dollars.

I request that you cause said judgment to be registered of this date, and that you warrant on the treasurer of the City of New Orleans, or disbursing officer of the city, for it, in compliance with section 2 of act No. 5 of extra session of 1870.

Respectfully, yours,

(Signed) J. AD. ROZIER,

Attorney of the New Orleans Gas-Light Company.

On the 23d day of October, A. D. eighteen hundred and seventy-eight (23d October, 1878), I handed the original of this copy, together with the documents annexed, to Mr. J. G. Brown, administrator of public accounts, in person, at his office at the city hall, in the city of New Orleans, in the presence of J. Ad. Rozier, attorney for the New Orleans Gas-Light Company.

New Orleans, Oct. 23d, 1878.

(Signed) V. VALLOIS, *Sec'ty.*

"The documents annexed are: A certified transcript of the peti-
88 tion of plaintiff, the answer of defendant, and the judgment of the court (4th district court for the parish of Orleans, No. 45064).

(Signed) V. VALLOIS, *Sec'ty.*

Petition in the case 45645 *offered in evidence by plaintiff.*

To the honorable the judge of the fourth district court in and for the parish of Orleans.

This petition of the New Orleans Gas-Light Company, a corporation chartered by the laws of this State, and domiciled in the parish of Orleans, respectfully represents that on the 13th day of June, 1878, in due course of legal proceedings, in the case of petitioners versus the City of New Orleans, a judgment was rendered contradictorily in favor of petitioners, and against the said City of New Orleans, and signed on the 19th, in the sum of one hundred and thirteen thousand three hundred and sixty-eight $\frac{85}{100}$ dollars with interest at the rate of seven per cent. per annum until paid, on the following-named sums: On the sum of four thousand and five $\frac{94}{100}$ dollars, from September 1st, 1875; on the sum of four thousand two hundred and fourteen $\frac{80}{100}$ dollars from October 1st, 1875; on the sum of five thousand and three $\frac{81}{100}$ dollars from February 1st, 1876; on
89 the sum of eight thousand six hundred and eighty-four $\frac{61}{100}$ dollars from September 1st, 1876; on the sum of nine thousand one hundred and forty-seven $\frac{04}{100}$ dollars from October 1st, 1876; on the sum of nine thousand three hundred and thirty-eight $\frac{15}{100}$ dollars from November 1st, 1876; on the sum of nine thousand seven hundred and fifty-nine $\frac{57}{100}$ dollars from December 1st, 1876; on the sum of ten thousand eight hundred and eighty-two $\frac{87}{100}$ dollars from February 1st, 1877; on the sum of nine thousand seven hundred and five $\frac{53}{100}$ dollars from November 1st, 1877; on the sum of ten thousand two hundred and sixty-nine $\frac{07}{100}$ dollars from December 1st, 1877; on the sum of ten thousand eight hundred

and seventy-four $\frac{69}{100}$ dollars from January 1st, 1878; on the sum of eleven thousand two hundred and forty-eight $\frac{21}{100}$ dollars from February 1st, 1878 until paid, and costs of suit, all of which will more fully appear by reference to the record of said cause numbered 45064, on the docket of this honorable court; that the said judgment was for gas furnished by petitioners to defendants during the year' 1875, 1876, 1877, and 1879, and the said indebtedness was a part of the necessary current expenses of the city government during those years.

Your petitioners further allege that, on the 23d day of October,
90 1878, the petitioners caused to be filed in the office of the administrator of public accounts certified copies of the petition, answer, and judgment in said cause, and the certificate of the clerk of the court that said judgment was final and executory, which were on that date registered in the said office of the administrator of public accounts—all according to the provisions of acts Nos. 5 and 7 of the extra session of 1870; that, on the same day, your petitioners requested the administrator of public accounts, in writing, to issue his warrant according to law for the payment of said judgment; that notwithstanding, the said administrator failed to issue said warrant, and that in the adoption of the annual budget thereafter, the council of the city has made no appropriation for the payment of petitioners' or any other judgment, and that relators have received no part of said judgment, and that no provision for its payment has ever been made.

Petitioners further show that relators are prohibited, by act No. 5 aforesaid, from issuing a fieri facias or any other writ of execution against the said city; that, by virtue of the said acts Nos. 5 and 7 of the extra session of 1870, the remedy of judgment creditors is as follows: Judgment creditors are to cause their judgments to be recorded in the office of
91 the administrator of public accounts, with other papers required by the said acts, and it is then made the duty of the administrator to draw his warrant on the administrator of finance for the payment of said judgment on the fund previously appropriated for that purpose, in the annual budget or budgets, or in case of the exhaustion of those funds, then on such portion of the amount appropriated for contingent expenses in the annual budgets as the council may, by special appropriation, in their discretion direct to be applied to that purpose; and in case there be no appropriation in any way, all judgments are required to be paid in the order in which they are filed and registered in the office of the administrator of public accounts from the first money next annually set apart for that purpose.

Your petitioners further show, that by section 19 of act No. 7 of the acts of the extra session of 1870, and the 14th section of the act No. 73 of the acts of 1872, it is made the duty of the council to adopt annually an estimate or budget of receipts or revenues, and separately an estimate of expenditures and liabilities, and that it is the duty of the city council, in making the estimate of receipts and revenues, to include all revenues likely to accrue during the ensuing year from licenses, and taxes,
92 and all sources whatever, including amounts receivable for franchises and rights of way, or in the shape of a bonus from the city railroads laid by licenses from the council in the streets of the city.

Your petitioners further show that the council of the city have power

to levy an annual tax of one and a half per centum on all real and personal property in the city of New Orleans, and licenses on all trades and professions, and there will accrue during the year 1880 the following additional revenues: On the 3d day of February, 1880, there will expire the rights of way previously granted to the New Orleans City Railroad Company on Camp and Prytania and Camp and Magazine streets; on the 2d of July, 1880, the right of way on Rampart and Dauphin, Canal street and Metairie Ridge to Bayou St. John and the Esplanade and Bayou Bridge lines, and at those dates, respectively, will accrue the right of the city to purchase at an appraised value all the property belonging to those lines. That by ordinance 4698, administration series adopted March 26th, 1879, the council ordered the administrator of commerce to advertise for sealed proposals for the sale of the franchises of the said road for twenty-five years from the expiration of the present franchises, and that
93 an advertisement has been made accordingly by calling for sealed proposals to be opened on the first day of September, 1879; all of which will more fully appear by reference to the pamphlet herewith filed and marked exhibit A.

That the said advertisement prescribed that the property should be sold for cash on the delivery of the franchises, and the delivery to be complete by placing the purchaser in actual possession, as well as signing the act of transfer.

Your petitioners further aver that at the time of opening the sealed proposals, various bids were found, and one from a responsible party for six hundred and thirty thousand dollars; that a deposit of fifty thousand dollars was made as required by the advertisement, and that the bidder, the New Orleans City Railroad Company, stands ready to abide by and perform its bid. Responsible parties have offered a larger amount.

Now your petitioners aver that whatever may be received from the sale of the said franchises is a revenue which ought to be budgeted and included in the estimate of receipts and revenues for the year in which it accrues; that according to the terms of the advertisement, and from the fact that the city has no control over the franchises offered for sale, until the expiration of those now existing, the price of said franchises is
94 a part of the revenue of 1880, ought to be included in its revenues for that year in the budget to be adopted, and form a fund to be appropriated to the payment of the expenses and liabilities of the city, including registered judgments. That in violation of the provisions of law aforesaid, and of the rights of your petitioners, the council of the city have resolved to collect, as soon as possible, before the budget of 1880 is made up, the price, and to use it at once in the retirement of the bonded and floating debts of the city indiscriminately, whether due or not, as will appear by reference to an ordinance or resolution adopted August 26th, 1879, a copy of which is hereunto annexed and marked Exhibit B.

Your petitioners further show that the bonds intended in the said resolution or ordinance are premium bonds; that the council does not recognize any other bonds; that by act No. 31 of the acts of 1876, provision was made for the payment of premium bonds by the levy of a special tax of one-half of one per centum annually on all the assessed property within the corporate limits of the city, and the city council is required to levy annually that tax for that purpose. The tax as collected is required to be

set apart and placed to the credit of an account called the premium bond account. No other provision for the payment of said bonds has
95 been made or contemplated than appears in said act. For other purposes the council is authorized to levy an additional annual tax of one per centum on all assessed property within the corporate limits of the city.

Your petitioners further allege that they have been advised and believe that the current expenses and judgments, in the order of their registration, are entitled to be paid, by preference, over all other liabilities of the city, out of any annual revenue not specially destined and appropriated by law to other purposes, and that it is the duty of the council to exhaust the power of taxation to provide for the payment of said judgments.

Your petitioners aver that the price of the sale of the said railroad franchises now about to be made, together with the taxes which it is the duty of the council to levy, will suffice to pay their judgment aforesaid, in addition to all judgments previously registered.

Your petitioners further show that the proposed appropriation by the council to the retirement of premium bonds, if permitted to go into operation, will work them an irreparable injury.

Wherefore your petitioners pray, in consideration of the premises and of the subjoined affidavit and bond that a writ of injunction issue to
96 the city of New Orleans and its council, composed of Isaac W. Patton, mayor, Alfred H. Isaacson, administrator of finance, John Glynn, jr., administrator of public accounts, E. R. Chevally, administrator of water-works and public buildings, Washington Marks, administrator of assessments, P. Meallie, administrator of police, J. Henry Behan, administrator of commerce, and J. D. Houston, administrator of improvements, and to the said mayor and administrators separately, prohibiting and restraining them from appropriating the price or proceeds of the aforesaid railroad franchises to the payment of the aforementioned premium bonds or otherwise than by annual budget; that said parties be cited to answer this petition; that in due course of law said injunction be perpetuated with costs, and for all general equitable relief.

(Signed) JOHN & W. S. FINNEY,
Att'ys for Petitioners.

Affidavit.

James Jackson, being duly sworn, declares that he is the president of the New Orleans Gas-Light Co., and that all the allegations in the foregoing petition are true.

(Signed) JAMES JACKSON.

Sworn to and subscribed before me this twenty-seven' of September, 1879.

97 (Signed) JAS. FAHEY,
Notary Public.

Bond of injunction.—Filed Sept. 23d, 1879.

Know all men by these presents that we, The New Orleans Gas-Light Company, as principal, and Duncan F. Kenner, as security, of the city of

New Orleans and State of Louisiana, are held and firmly bound unto The City of New Orleans, I. W. Patton, mayor, and administrators, in the sum of twenty thousand dollars lawful money of the United States of America, to be paid to said City of New Orleans, mayor and administrators, heirs, executors, administrators, and assigns, for which payment well and truly to be made we bind ourselves, and each of us by himself, and each of our heirs, executors, administrators, firmly by these presents. Sealed with our seals, and dated the September, in the year of our Lord 1879.

Whereas the said New Orleans Gas-Light Company has this day presented a petition to the honorable the fourth district court for the parish of Orleans praying a writ of injunction to issue:

Now, the condition of the above obligation is that we, the above bound New Orleans Gas-Light Company and Duncan F. Kenner will well
98 and truly pay to the said City of New Orleans, mayor and administrators, the defendant in said writ of injunction, all such damages as they may recover against us in case it should be decided that the injunction was wrongfully obtained.

(Signed) JAMES JACKSON, [L. S.]
President New Orleans Gas-Light Co.

(Signed) DUNCAN F. KENNER. [L. S.]

Signed, sealed, and delivered in presence of—

Order.

Let a writ of injunction issue as herein prayed for, on plaintiff giving bond in the sum of twenty thousand dollars, with good and solvent security, and conditioned according to law.

(Signed) W. H. ROGERS,
Judge 5th District Court, acting for Judge of the Fourth District Court, absent from the State.

Writ of injunction.

STATE OF LOUISIANA:

Fourth district court for the parish of Orleans.

99 The State of Louisiana to I. W. Patton, mayor city of New Orleans, Alfred H. Isaacson, administrator of finance; John Glynn, jr., administrator of public accounts; E. R. Chevally, administrator of water-works and public buildings; J. Henry Behan, administrator of commerce; P. Meallie, administrator of police; Washington Marks, administrator of assessments, and J. D. Houston, administrator of improvements, city of New Orleans, greeting:

NEW ORLEANS GAS-LIGHT COMPANY
vs.
CITY OF NEW ORLEANS. } No. 45645.

You are hereby commanded, enjoined, and restrained in the name of the

State of Louisiana and of the fourth district court for the parish of Orleans, from appropriating the price or proceeds of the New Orleans City Railroad franchises to the payment of the bonded and floating debts of the city of New Orleans, known as the premium bonds or otherwise than by annual budget, and you are so considered enjoyned and restrained till the further order of this court. Witness the honorable W. H. Rogers, judge fifth district court, acting for honorable W. T. Houston, judge of our said court, this 23d day of September, in the year of our Lord one
100 thousand eight hundred and seventy-nine, and in the one hundred and fourth year of the Independence of the United States.

(Signed) GEO. P. CAZELAR,
Dep. Clerk.

Return writ of injunction.—Filed September 24th, 1879.

Received September 24th, 1879, and on the 24th day of September, 1879, I served copies of the within writ of injunction on I. W. Patton, mayor city of New Orleans, in person, and on John Glynn, jr., administrator of public accounts, in person, and on Alfred H. Isaacson, administrator of finance, in person, and on E. R. Chevally, administrator of water-works and public buildings, in person, and on P. Meallie, administrator of police, in person, and on J. Henry Behan, administrator of commerce, in person, and on Wash. Marks, administrator of assessments, in person, and on J. D. Houston, administrator of improvements, in person, herein named.

Returned same day.

(Signed) T. J. NAREN,
D'y Sheriff.

Sheriff's fee $16.00.

Exhibit marked No. 16, offered in evidence by plaintiff.—Filed October 20th, 1879.—Ordinance of the city council.

101 MAYORALTY OF NEW ORLEANS,
City Hall, August 18th, 1875.

No. 3218, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of July, 1875, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

Department of police.—Lighting city:

New Orleans Gas-Light Company $8,011 88

Adopted by the council of the city of New Orleans August 17th, 1875.

Yes: Bertoli, Brown, Bouny, Burke, McCarthy, Pilbury.

(Signed) CH'S J. LEEDS, *Mayor.*

(Signed) J. H. HARDY, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract from ordinance No. 3218, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

102 *Exhibit marked No. 17, offered in evidence by plaintiff.—Filed October 20, 1879.—Ordinance of city council.*

MAYORALTY OF NEW ORLEANS,
City Hall, August 31st, 1875.

No. 3232, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of August, 1875, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, lighting city as per contract $8,429 60

Adopted by the council of the city of New Orleans August 31st, 1875.
Yes: Bertoli, Brown, Bouny, Burke, Landy, McCarthy, Pilsbury.
(Signed) CH'S J. LEEDS, *Mayor.*
(Signed) J. H. HARDY, *Secretary.*

I certify the foregoing to be a true extract from ordinance No.
103 3232, administration series, as per record on file.
(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 18, offered in evidence by plaintiff.—Filed October 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, June 13th, 1876.

No. 3558, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of December, 1875, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, as per contract..... $10,007 62

Adopted by the city council of the city of New Orleans January 11th, 1876.

Yeas: Bertoli, Brown, Bouny, Burke, Landy, McCarthy, Pilsbury.

(Signed) CH'S J. LEEDS, *Mayor.*

(Signed) J. H. HARDY, *Secretary.*

104 CITY HALL, *New Orleans.*

I certify the foregoing to be a true extract from ordinance No. 3558, administration series.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 19, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 23d, 1876.

No. 3711, administration series. An ordinance providing for the payment of the accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of July, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each accounts, and not otherwise appropriated:

Lighting city, New Orleans Gas-Light Company		$8,684 61
Jefferson Gas-Light Company		2,670 30
Thomas Pickles oil	3,024 21	
Less ten per cent. retained	302 25	
		2,722 06
Thomas Pickles lamp-posts and baskets		35 00
Total		14,111 97

105 Adopted by the council of the city of New Orleans, November 23d, 1876, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Bouny, Burke, McCarthy—5.

(Signed) J. H. HARDY, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true copy of ordinance No. 3711, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 20, offered in evidence by plaintiff.—Filed October 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 23d, 1876.

No. 3722, administration series. An ordinance providing for the payment of the accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of August, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate account, and not otherwise appropriated.

106 New Orleans Gas-Light Company, for lighting the city of New Orleans in the month of August, 1876, as per contract..... $9,147 04

Adopted by the council of the city of New Orleans, Novem. 23d, 1876, the veto of the mayor to the contrary notwithstanding.
Yeas: Bertoli, Brown, Bouny, Burke, McCarthy—5.
(Signed) J. H. HARDY, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true copy of ordinance No. 3722, administration series, as per record on file.
(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 21, offered in evidence by plaintiff.—Filed October 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 28th, 1876.

No. 3735, administration series. An ordinance providing for the payment of the accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of September, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to
107 the credit of the appropriate fund, for each account, and not otherwise appropriated.

New Orleans Gas-Light Company, for lighting the city in the month of September, 1876, as per contract..... $9,338 15

Adopted by the council of the city of New Orleans November 28th, 1876, the veto of the mayor to the contrary notwithstanding.
Yeas: Bertoli, Brown, Bouny, Burke, McCarthy—5.
Nay: Landry—1.
(Signed) J. H. HARDY, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract of ordinance No. 3735, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 22, offered in evidence by plaintiff.—Filed October 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 28th, 1876.

No. 3744, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are
108 hereby, made for the month of October, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, for lighting the city in the month of October, 1876, as per contract..... $9,759 57

Adopted by the council of the city of New Orleans November 28th, 1876, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Bouny, Burke, McCarthy—5.

Nay: Landry—1.

(Signed) J. H. HARDY, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract of ordinance No. 3744, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 23, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, Decem. 15th, 1876.

109 No. 3768, administration series. An ordinance providing for the payment of the several accounts herein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of November, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, as per contract..... $10,234 56

Adopted by the council of the city of New Orleans December 15th, 1876, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Bonny, Burke, McCarthy, Pillsbury—6.

Nay: Landry—1.

(Signed) J. C. HARDY, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract from ordinance No. 3768, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

110 *Exhibit, marked No.* 24, *offered in evidence by plaintiff.—Filed October* 20*th*, 1879.—*Ordinance of city council.*

MAYORALTY OF NEW ORLEANS,
City Hall, January 20*th*, 1877.

No. 3811, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of December, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, for lighting the city in the month of December, 1876, as per contract..... $10,882 87

Adopted by the council of the city of New Orleans January 16th, 1877.

Yeas: Brown, Cavanac, Diamond, Edwards, McCarthy, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*

(Signed) TH. G. RAPIER, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract of ordinance No. 3811,
111 administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit, marked No. 25, *offered in evidence by plaintiff.—Filed Oct.* 20*th*, 1879.—*Ordinance of city council.*

MAYORALTY OF NEW ORLEANS,
City Hall, October 19*th*, 1877.

No. 4170, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby,

made for the month of September, 1877, that the administrator of public accounts warrant on the administrator of finance in payment of the same whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, for lighting the city as per contract $9,705 33

Adopted by the council of the city of New Orleans October 16th, 1877.

Yeas: Brown, Cavanac, Denis, Diamond, Edwards, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*
(Signed) THOS. G. RAPIER, *Secretary.*

112

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract from ordinance No. 4170, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit, marked No. 26, *offered in evidence by plaintiff.—Filed October* 20*th,* 1879.—*Ordinance of city council.*

MAYORALTY OF NEW ORLEANS,
City Hall, Nov. 15*th,* 1877.

No. 4207, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of October, 1877, and that the administrator of public accounts warrant on the administrator of finance in payment of the same whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, for lighting the city as per contract $10,269 07

Adopted by the council of the city of New Orleans November 13th, 1877.

113 Yeas: Brown, Cavanac, Diamond, Edwards, McCarthy, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*
(Signed) THOS. G. RAPIER, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract from ordinance No. 4207, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No 27, offered in evidence by plaintiff.—Filed Oct. 20th, 1879.—Ordinance of city council.

MAYORALTY OF NEW ORLEANS,
City Hall, December 13th, 1877.

No. 4252, administration series. An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be, and are hereby, made for the month of November, 1876, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

114	New Orleans Gas-Light Company for lighting the city as per contract	$10,874 69
	Jefferson Gas-Light Company for lighting the sixth district as per contract	$2,713 85
	Thomas Pickles, for lighting oil lamps as per contract	$1,634 50
	For ten per cent. retained on contract from December 1st, 1876, to November 30th, 1877	$2,172 90
	Total	$17,395 94

Adopted by the council of the city of New Orleans December 11th, 1877.
Yes: Brown, Cavanac, Denis, Diamond, Edwards, McCaffrey, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*
(Signed) THOS. J. RAPIER, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true extract of ordinance No. 4252, administration series, as per record on file.

(Signed) THOS. G. RAPIER,
Secretary City Council.

Exhibit marked No. 28, offered in evidence by plaintiff.—Filed October 20th, '79.

MAYORALTY OF NEW ORLEANS,
City Hall, January 3d, 1878.

No. 4287, administration series. An ordinance providing for the payment of the several accounts therein named.

115 Be it ordained, That the following appropriations be, and are hereby, made for the month of December, 1877, and that the administrator of public accounts warrant on the administrator of finance in payment of the same, whenever there shall be money in the city treasury to the credit of the appropriate fund for each account, and not otherwise appropriated:

New Orleans Gas-Light Company, for lighting the city as per contract	11,248 21
Jefferson Gas-Light Company, for lighting the sixth district as per contract	2,714 65
Thomas Pickles, for lighting oil lamps as per contract	1,637 81
Total	$15,600 67

Adopted by the council of the city of New Orleans January 2d, 1878.
Yeas: Brown, Cavanac, Denis, Diamond, McCaffrey, Rengstorff.
(Signed) ED. PILSBURY, *Mayor.*
(Signed) THOS. G. RAPIER, *Secretary.*

CITY HALL,
New Orleans, May 2d, 1878.

I certify the foregoing to be a true copy of ordinance No. 4287, administration series, as per record on file.
(Signed) THOS. G. RAPIER,
Secretary City Council.

116 *Under advisement.—Extract from the minutes, October 23d,* 1879.

Fourth district court, for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT COMPANY, *vs.* CITY OF NEW ORLEANS ET ALS. — No. 45644.

The application for writ of mandamus herein prayed for came on again this day for trial—John and W. S. Finney of counsel for relator; E. Howard McCaleb and E. H. Farrar of counsel for defendants—when, after hearing further evidence and argument of counsel, this application for a writ of mandamus was submitted on authorities to be furnished, and the court took the same under advisement.

Testimony.—Filed October 25th, 1879.

STATE OF LOUISIANA:

Fourth district court for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT COMPANY, *vs.* THE CITY OF NEW ORLEANS. — No. 45644. Mandamus.

117 Testimony and notes of evidence taken in open court before Hon. W. T. Houston, judge, October 23d, 1879.

Appearances: John & W. S. Finney, esqr., for plaintiff; E. Howard McCaleb & E. H. Farrar, for def't.

Counsel for plaintiff offers in evidence list of registered judgments against the city of New Orleans, unpaid October 1st, 1879, marked Z.

Also, offers in evidence the budget of receipts for the year 1874, and the budget of expenditures for the same year, marked Y & X.

Also, offers in evidence amended budget of 1874, marked V.

Also, offers in evidence the budget of receipts for the year 1875, and the budget of expenditures for the same year, marked U and T.

Also, offers in evidence amended budget of 1875, marked S.

Also, offers in evidence budget of receipts for the year 1876, marked R.

118 Also, offers in evidence amended budget of 1876, marked Q.

Also, budget of expenditures of 1876, marked P.

Also, offers in evidence budget of receipts of 1877, marked O.

Also, budget of expenditures of 1877, marked N.

Also, amended budget of expenditures and receipts for the year 1877, marked M.

Also, amended budget of 1877, marked L.

Also, offers in evidence budget of receipts of 1878, marked K.

Also, amended budget of 1878, marked J.

Also, offers in evidence budget of receipts of 1879, marked I.

Also, budget of expenditures of 1879, marked H.

Also, offers in evidence ordinance No. 6149, administration series, promulgated in the Picayune of October 3d, 1879, said paper being now filed.

119 Also, offers in evidence the premium bond debt, marked G.

Counsel for defendants offers in evidence statements showing uncollected taxes due and exigible for the years 1874, 1875, 1876, 1877, and 1878, to be furnished and filed.

Also, offers in evidence statements showing the taxes that have been collected for those years, also to be furnished and filed.

Also, offers in evidence ordinance No. 6148, administration series, adjudicating franchise to the City Railroad Company for six hundred and thirty thousand dollars, marked F.

Also, ordinance No. 6112, administration series, appropriating funds to be derived from sales of franchise and right of reversion of the New Orleans City Railroad Company, marked E.

Also, offers in evidence ordinance No. 6160, administration series, approving action of mayor in signing the contract, marked D.

Also, supplemental budget October 2d, 1879, ordinance No. 6149, amended budget of receipts and expenditures for the same year, marked C.

120 Also, the extract showing the provisions made by the city for judgments in the annual budget of expenditures from 1871 to 1879, inclusive, marked B.

Also, statements showing the payment of judgments against the city under act 5 of 1870, from 1870 to 1879, inclusive, to be furnished and filed.

Also, offers in evidence ordinance No. 2932, administration series, levying city taxes for the year 1875, marked A.

Also, ordinance No. 3367, administration series, levying city taxes for the year 1876, marked A 2.

Also, offers in evidence ordinance No. 3868, administration series, levy taxes for the year 1877, marked A 3.

Also, offers in evidence ordinance 4829, administration series, marked A 4.

Mr. JOHN GLYNN, jr., sworn*ed* and examined for plaintiff.

Direct examination by Mr. FINNEY:

Q. Colonel, are you the administrator of public accounts?

A. I am, sir.

121 Q. It is your business to place all the funds to the credits to which they belong on the books?

A. Yes, sir; I keep the general accounts of the hall, and direct how they shall be kept in other departments.

Q. There are distinct funds on the books of the city, are there not?

A. Which funds?

Q. There are distinct sums of money appropriated to specific purposes; for instance, there is a premium bond fund?

A. Yes, sir.

Q. What other funds are there besides the premium bond fund?

A. According to our present subdivision, the premium bond, the school, and the general tax is the subdivision of the fund.

Q. That is to say, you have three; the premium bond, the school tax, and the general fund?

A. Yes, sir; but the school fund, however, is a budget of appropriation and not really a tax for that purpose, but as the school fund is disbursed by the administrator of finance, who is the treasurer of that fund, the collection of tax bills are subdivided in that way. The school fund is not subject to my warrant as all other payments.

Q. The school fund is not subject to your warrant?

A. No, sir.

122 Q. It is an amount that is not apart from the general levy of taxes?

A. Yes, sir.

Q. And placed to the control of the administrator of finance?

A. Yes, sir; who is the treasurer of the fund.

Q. Did I understand you to say, the school tax is provided out of the general levy?

A. It is a budget of appropriation, fixed amount, the same as for police purposes, and others. It is in the shape of a budget appropriation.

Q. The premium bond fund is a special fund?

A. Yes, sir; it is a special fund, and set aside separately each time that a tax bill is collected. In crediting up the accounts of the tax bill a certain portion for interest and redemption (that is the title of the account) is set aside for the premium bond.

Q. And the receipts from all sources go into what is called the general fund, do they not?

A. Yes, sir; the receipts from all other sources. I make an exception to that. There is some sources from which receipts may be derived, that would go to the interest and redemption account.

Q. Which are those?

A. In accordance with the premium bond act.

Q. What section is that?

A. Section 10, I believe.

123 Q. Colonel, what was done with this money that was received from the grant of the franchise to the City Railroad Company—this six hundred and thirty thousand dollars?

A. Premium bonds were purchased with it, in accordance with that section I just quoted—section 10 of the premium-bond act.

Cross-examination by Mr. FARRAR:

Q. Colonel, when you said certain receipts that would go into the budget would not go into the general fund, did you mean receipts from the sale of property during any year?

A. Yes, sir; that is what I referred to—the receipts from the sale of all property.

Q. Did you gentlemen, in passing this ordinance of August 27th, with reference to the appropriation of the proceeds to be derived from the sale of the city railroad franchise, take legal advice as to whether those proceeds would fall under section 10?

A. We did, sir.

Q. What was the advice given you?

A. The advice was that the railroad franchises were property, and came within the meaning of the property mentioned in section 10 of the premium-bond act.

124 Q. Was there not a strong disposition in the council to regard that money as revenue?

A. Yes, sir; there was at one time.

Q. If the money had been regarded as revenue what would the council have done with it?

A. Well, it would have been used to help out the budget of this year, which is short in some respects, in case of police, public schools, and so on. It would have been used to provide for the city expenditures bearing on the government.

Q. What overcame this disposition on the part of the council to regard this fund as a revenue?

A. Well, the opinion of some members of the council that it was property, as I just said, in the meaning of section 10 of the premium-bond act; and then the advice of the legal advisers of the council being unanimous in their construction of the law.

Q. Do you know why the council bought premium bonds with this money rather than floating indebtedness?

A. On account of the advantage to the city of buying premium bonds. They are worth nearly ten per cent. less than floating indebtednesses. And other objections to buying floating indebtedness is the difficulty of getting any large amount of it without running up the market value

125 of it to a great extent, and, besides, it is unwieldly; take a long time to transfer it on the books. The city issues no certificate of indebtedness, so that those unpaid ordinances are in no shape to handle; are not in a negotiable shape.

Q. Do you know whether the question of interest had anything to do in determining the council to do it?

A. I consider that was one of the considerations.

Q. Do you know what interest has now accrued on the premium bonds?

A. Yes, sir.

Q. More than five years isn't it?

A. Yes, sir, five years.

Q. That is twenty-five dollars of interest on every one hundred dollars of premium bonds?

A. Yes, sir. Every premium bond represents twenty-four dollars; capitalized interest makes it worth now twenty-four dollars.

Q. That is, every one hundred dollars of premium bonds is worth one hundred and twenty-five dollars?

A. One hundred and twenty-two dollars and a half. The interest on the premium bond is capitalized. The premium bond of twenty dollars has one dollar added to it annually. At the end of the first year it was worth twenty-two dollars, and now each premium bond is worth twenty-four dollars and fifty cents; that is, will be on the first of January.

126 It was worth twenty-four dollars on the fifteenth of July.

Q. Do you know what the average market value that premium bonds has been in the last six months?

A. Well, say from twenty-three (23) to thirty (30); they have gone down for a short while as low as twenty-three (23).

Q. Well, when they sold at twenty-three (23) they sold for less than the accrued interest on them?

A. Yes, sir; I will state intelligently, that when premium bonds were bought, taking the market value of floating indebtedness, premium bonds were about four points cheaper. Premium bonds at twenty-seven (27) or twenty-eight (28) were equal to floating indebtedness; that is floating indebtedness at twenty-seven (27) would be equal to premium bonds at thirty-one (31).

Q. When the city takes up and pays floating indebtedness of back years, does it pay any interest on them at all?

A. No, sir.

Q. It simply pays the face value?

A. Yes, sir; and under the ordinances of the constitutional convention, when it is adopted, it makes this floating indebtedness receivable for taxes. There is as much outstanding taxes due as there is floating indebtedness, so that one will about absorb the other.

127 Q. For some years is there not due very much more taxes than there is outstanding floating indebtedness against the taxes to be collected for that year?

A. For every year, but 1878, that is the case.

Q. There is more floating indebtedness out, then, for 1878 than there will be taxes collected?

Ans. Yes, sir.

Ques. How far back, then, does the floating indebtedness go?

A. Up to about 1870. We keep pretty strict account of it.

Q. I mean for what years are these floating indebtedness outstanding?

A. For all past years, but the only cash years are from 1875 up; 1876, 1877, and 1878 are what we denominate as cash years. The outstanding taxes of those years are payable in cash.

Q. And the outstanding taxes of previous years?

A. Are paid in the floating indebtedness.

Q. Even as the law stands now?

A. As the law stands now, I mean.

Q. Well, Colonel, the basis of the judgments which have been rendered against the city in favor of the New Orleans Gas-Light Company is gas furnished by the company to the city.

Ans. Yes, sir.

Ques. For the years 1875, '76, & 1877.

Ans. Yes, sir.

128 Ques. Is there sufficient taxes outstanding for those years to pay all the budget expenses of the city?

Ans. I believe, if not altogether enough, there is almost enough. My recollection is, that the unpaid taxes and the unpaid ordinances about balance for those cash years.

Redirect cross-examination by Mr. FINNEY:

Ques. Colonel, when was this money received, this six hundred and thirty thousand dollars for the price of the railroad franchise?

Ans. I will have to refresh my memory. On the date that the ordinance was passed, on the date that the adjudication was made to the City Railroad Company, on the 2d day of October, 1879.

Ques. Into what funds does the rents from the markets go?

A. Into the general fund.

Ques. The Sugar Shed Company?

A. Into the general fund. They all appear on the budget of receipts adopted annually.

By Mr. MCCALEB:

Ques. In addition the amounts held by the city of premium bonds, which you have given a list of, is there not a half million of dol-

129 lars more held by the commissioners of the consolidated debt?

A. Yes, sir.

Q. That is held in trust for the interest fund that they invested in these premium bonds?

A. Yes, sir; held in trust for interest fund.

By Mr. FINNEY:

Ques. That five hundred thousand, colonel, that is exclusive of the amount exhibited in that statement marked G?

Ans. Well, it appears in that statement, it does not appear detailed. It appears in that general amount of twelve millions of dollars.

Ques. Then the commissioners of the consolidated fund hold five hundred thousand, and the city holds eleven millions five hundred thousand?

Ans. The city holds two millions nine hundred and sixty thousand, and she represents—of course gets the benefits of the drawings—six millions additional, which represents the unconverted bonds, outstanding bonds.

130, 131 *Document marked Z, offered in evidence by plaintiff.—Statement of registered judgments unpaid October 1st, 1879.*

Names.	Transferee.	Reg. No.	Folio.	Date of registration.	Amount.	Date of jud'l demand.	Interest.	Costs.	Total.
Patrick Irwin		246	115	March 22, '75	10,000 00	To the opening of Poland street; not yet opened.			10,000 00
J. N. Folwell		252	138	June 11, "	12,524 90	Various	3,481 28		16,006 18
J. P. Maehera et al		254	143	July 15, "	120 00	Aug. 18th, 1875	37 25	311 14	664 96
Thos. Bullen	Geo. L. Bright	255	145	" "	150 00	" " "	46 57		
John Fitzpatrick	Firemen's Ins. Co	256	147	Aug. 2, "	4,095 86	Various	1,243 23		6,059 09
John H. Keller		257	151	" "	5,466 00	May 18th, '74	1,478 97		6,944 97
John Moylan	John Klein & Co	260 to 269	162 to 171	Dec. 16, "	887 50	Various	78 41		965 91
J. Guilford & Lee	Folsom Bros	270	172	Jan. 15, '76	2,000 00				2,000 00
Nicholas Connell	S. P. Blanc	272	118	" 26, "	9,862 29	Dec. 1st, 1876	2,235 49		12,097 78
" "	Citizens' B'k of La	"	"	" "	650 00	" " "			650 00
" "	A. Jardet	"	"	" "	1,164 02	" " "			1,164 02
Miller, Sautenberg & Peckham		274	187	Mch. 8, "	2,500 00	Jan. 28, '75	626 35		3,126 35
N. B. Hutton		275	198	" 17, "	38 00	Jan. 15, '75	6 27		44 27
R. B. Baquié		276	200	July 30, "	34 50	July 30, "	7 28		41 78
Rebecca W. Wolf		280	210	May 13, "	13,000 00	Various	3,835 00		16,385 00
Rufus Waples	J. A. Alsworth	281	215	July 7, "	2,820 00	"	501 46	170 90	3,492 36
Laurence Casey		282	223	" 8, "	58 37	Nov. 1, 1873 old 519.50	17 14		75 51
John Klein		283	224	Aug. 21, "	3,300 00	May 1, 1874	11,162 00	289 85	44,451 85
Potter & Andrews		284	227	Sep. 12, "	901 68	Various	233 77		1,135 45
Jos. Alexander		285	231	Nov. 8, "	138 00	"	67 77		205 77
W. Bailey & Mrs. Aldrich		286	235	" 20, "	1,200 00	Mch. 22, '72	451 33	72 40	1,723 73
Alfred Marchand		287	239	Dec. 3, "	195 00	Various	41 12	124 40	360 52
D. Do.		288	241	" 4, "	3,952 43	"	941 98	146 15	5,040 56
Do. Do.		289	245	" " "	1,015 "	Janua'y 1, '75	289 27	43 00	1,347 27
Chas. E. Rathbone		290	248	" " "	3,090 00	April 1st, '75	835 35	43 60	3,968 95
Emma B. Jones		291	251	" " "	1,382 50	Various	298 95	45 70	1,727 15
Thomas Pickles		292	254	" 7, "	19,454 21	"	4,931 55		24,385 76
Myra C. Gaynes		293	258 B'k 3.	" 30 "	30,000 00				*30,000 00
132, 133 F. J. Herron	Homor & Benedict	294	5	May 4th, '79	2,420 00	Various	592 25		3,012 25
J. O. Landry	Wm. Henry	295	9	July 7, "	700	"	106 25		806 25
Folsom Bros		296	14	" 15, "	26,858 00	May 16th, 1873	8,556 97	18 45	35,433 42
Elizabeth McKay		297	19	" 31, "	489 00	Dec. 31, 1875	91 68	15 50	596 18
Chs. Boisblanc	S. P. Blanc	298	23	Aug. 23, "	500 00	June 10, 1876	81 25	22 00	603 25
Carson Mudge	Scholef Goodman & Son	299	27	Oct. 4, "	2,961 00				
" "	Folsom Bros	"	"	" "	1,044 00	June 23, '73	2,093 75		8,793 75
" "		"	"	" "	2,694 34				
J. B. Cotton & als		302	45	Feb. 6, '78	2,500 00	May 14, "	301 40		2,810 40

Thomas Pickles												
Maria Dunn												
		303	59	Apr.	13, '78	33,031 61	Various	4,982 93			38,014 54
L. F. Barrett		333	148	"	30, "	80 00	April 6, '78	5 40	16 50		101 90
		325 to 332	140 to 147	"	" "	652 50	Various	334 01	45 00		1,031 51
Joseph L. Herwig		335	154	May	27, "	5,000 00	Jan. 1st, '77	687 50	23 55		5,711 05
Philip F. Herwig		336	160	"	28, "	8,000 00	" " "	1,100 00	29 35		9,129 35
O. C. Blandin		338	174	"	29, "	2,000 00	" " "	275 00	19 25		2,294 25
Wm. J. Behan		341	187	June	5, "	70,550 56	Various	26,131 58	34 15		96,176 29
Emma B. Jones		343	198	"	8, "	1,440 00	"	178 00	32 20		1,650 20
L. F. Barrett		344 to 350	200 to 213	"	15, "	692 00	"	342 52	46 00		1,080 52
A. Marchand & Wm. Henry (J. F. Finney)		351	214	July	5, "	19,670 00	"	6,149 16	99 80		25,918 76
Labatt & Buisson, att'ys						10,000 00					10,000 00
G. Goekenbuch	I. Newman Bros	352	274	Aug.	4, '78	1,666 67	Dec. 4, '77	147 45	40 20		1,854 32
Do. Do.	Braugh, Buck & D	"	"	"	" "	833 33	" " "	73 72			907 05
F. Condreau	W. B. Lancaster	353	276	"	8, "	37 50	June 28, '78	2 33			39 83
W. Jones, A. W. Riordan	S. D. Moody	354	277	"	" "	182 25	" " "	11 38			193 63
Do. Do.	W. B. Lancaster	"	"	"	" "	44 25	" " "	2 75			47 00
A. Rezzin, Burke vs. City		355	278	"	8 "	81 00	" " "	5 05			86 05
W. B. Lancaster, Burke vs. City	W. B. Lancaster	"	"	"	" "	30 00	" " "	1 87			31 87
M. Gleason	L. F. Barrett	356	280	"	" "	31 50	Various	1 95			33 45
Joseph Balter		357	281	"	11 "	366 98	"	178 40			545 38
Thos. Quilter	do	358	282	"	" "	428 03	July 3, '78	209 02			637 05
134, 135 A. G. Marqueze	Citizens' B'k of La	359	284	Sept.	10, '78	75 15	July 3, 1878	4 68			79 83
M. Devize	L. S. Boisdoic	"	"	"	" "	93 15	" " "	5 80			98 95
P. O'Brien		"	"	"	" "	11 75	" " "	72			12 47
W. B. Lancaster		"	"	"	" "	47 70	" " "	2 97			50 67
New Orleans Gas L. Co						113,368 85	Various	18,517 10	24 80		131,910 75
Frank Condeau		360	286	Oct.	24, "	40 50	Nov. 29, '77	1 50			42 00
Do. Do.	John Klein & Co	361	289	"	29, "	4 50	" " "	30			4 80
L. F. Barrett	W. B. Lancaster	"	"	"	" "	5,074 11	Various	805 27			5,879 38
A. R. Montgomery		"	"	"	" "	10,380 00	"	1,556 75	145 20		12,081 95
Chas. W. Horner		362	291	Nov.	30, "	1,080 00	"	155 83	78 60		1,314 43
Alfred Roupeau		363	294	"	" "	2,535 50	Nov. 1, '78	116 19			2,651 69
Willian O'Neil		364	295	Dec.	1, "	1,000 00					1,000 00
Jules Cassard		365	298	"	10, "	2,000 00	Feb. 25, '71	858 30	45 50		2,903 80
J. M. Saux	I. Newman	366	299	"	12, "	420 00	July 19, '77	47 05			467 05
Pierre Montegut		367	301	"	13, "	50 00		32 53			82 53
Peter Faska		368	303	Dec.	22, "	84 69	Oct. 25, '78	3 85			88 54
Do. Do.		369	304	"	23, "	65 57	Sept. 18, "	3 36			68 93
Chs. W. Horner		370	306	Jan.	3, '79	1,620 00	Various	122 75	58 30		1,801 05
M. A. Southworth		371	307	"	" "	1,737 33	May 21, '77	200 25	12 35		1,949 93
Do. Do.	Homor & Benedict	373	309	"	21, "	1,737 33	" " "	200 25	12 35		1,949 93
Herbert Wax	H. C. Warmoth	375	312	"	30, "	77 25	June 28, '70	36 41	40 75		264 16
Do. Do	Chs. Frank	"	"	"	" "	76 50	" 30, '71	33 25			100 00
R. Belden & R. S. Dermer	do do	376	315	Feb.	3, "	100 00					1,357 25
Chs. W. Horner	A. Cassard	377	316	"	" "	1,260 00	Various	64 75	32 50		2,735 92
G. del Corrall		378	317	"	15, '79	2,451 04	Aug. 1st, '78	284 28			
		379	318	"	18, "						
		380	320	"	27, "						

*Estimated.

Document marked Z, offered in evidence by plaintiff.—Statement of registered judgments unpaid October 1st, 1879—Continued.

Name.	Transferee.	Reg. No.	Folio.	Date of registration.	Amount.	Date of jud'l demand.	Interest.	Costs.	Total.
Amoskeag Ma'f'g Co		381	321	Mch. 6, "	28,459 41	Various	2,694 34	16 00	31,169 75
Gubernator & Terry		382	322	" 29, "	2,089 94	"	608 92	13 70	2,712 56
W. Nieman		383	324	Ap. 15, "	53 50				53 50
A. Dumestre		384	325	" " "	150 00	Aug. 15, '78	8 37	26 00	184 37
Rebecca W. Wolfe		385	327	May 2, "	540 00				540 00
Andrew J. Bacon		386	328	" 7, "	3,217 12	Various	816 98		4,033 10
John Fitzpatrick		387	330	Aug. 27, "	29,175 79	"	5,462 90		34,638 69
Sundry license jug't					1,675 00	"			1,675
John J. Hays	I. Newman & Bros. trans. various				5,000 60	"	*683 35		5,683 95
					571,157 62		118,820 06	2,195 14	692,172 82

Correct, E. O. E.
(Signed)

JOHN GLYNN, JR.,
Adm'r of Public Accounts.

* About.

136 *Budget of receipts for the year* 1874, *marked Y, offered in evidence by plaintiff.*

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 12th, 1773.

No. 2385, administration series. An ordinance adopting an estimate of the receipts or revenues of the city of New Orleans for the year 1874.

Be it ordained by the city council of the city of New Orleans, That, in conformity to an act of the legislature, No. 73, approved April 26th, 1872, the following estimate of the receipts and revenues of the city of New Orleans for the year 1874 be, and the same is hereby, adopted:

1.	Taxes of 1874 on valuations of taxable property, as per assessment rolls, amounting to a total of $130,913,356.00, at two and three-quarters per cent. (including police, and excluding school tax), allowing, say, five per cent. for non-collection, or $180,005.86		$3,420,111 42
2.	Licenses on professions, callings, &c		500,000 00
3.	Market revenues (pledged as per ordinance No. 1832, administration series)		260,000 00
4.	Fines & fees		20,000 00
5.	City railroads		7,500 00
6.	Interest, law charges, and printing (reimbursements on overdue tax bills)		15,000 00
7.	Ground rents		5,000 00
8.	Bills receivable		17,110 00
9.	Pound fees		1,000 00
10.	Cemeteries		3,000 00
11.	New Orleans Sugar Shed Company		3,300 00
12.	Water rent		130,000 00
137 13.	Levee dues (special pledge for payment of interest and redemption of wharf bonds) amount required for 1874	$121,000	240,000 00
14.	Street assessment bonds, assessment and interest due		1,115 00
15.	Drainage tax, first district	$25,000	
	second do	$20,000	
	third do	$40,000	
	fourth do	15,000	100,000 00
16.	Miscellaneous		5,000 00
	Grand total		$4,728,136 42

Adopted by the council of the city of New Orleans Novem. 11th, 1873.
Yeas: Brewster, Calhoun, Fitzenreiter, Lewis, Schneider, Stenken, Turnbull.

(Signed) LOUIS A. WILTZ, *Mayor.*

A true copy.

(Signed) DAVID SCULLY, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 2385, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

138 *Document, marked X, offered in evidence by plaintiff.—Filed October 23d, 1879.*

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 19th, 1873.

No. 2393, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans (including police and excluding schools) for the year 1874.

Be it ordained by the council of the city of New Orleans, That in conformity with section fourteen of an act of the legislature, No. 73, approved April 26th, 1872, the following estimate of expenditures of the city of New Orleans (including police and excluding schools) for the year 1874, be, and the same is hereby, adopted.

To be paid from the city debt tax:

1. Consolidated bonds, interest and sinking fund.....		650,000 00
2. Railroad bonds; 2 per cent. on face, $3,489,000 outstanding purchaseable, say, at eighty cents.....	55,824 00	
Interest on face at 6 per cent.....	209,340 00	
		265,164 00
3. Pontchartrain Railroad bonds; two per cent. on face of $113,000 outstanding, purchaseable, say, at eighty cents.....	1,808 00	
Interest on face at six per cent.....	6,780 00	
		8,588 00
4. Water-works bonds; two per cent. on face of $1,393,000 outstanding, purchaseable, say at 52½ cents.....	14,630 70	
139 Interest on face at five per cent.....	69,670 60	
		84,300 70
5. Seven per cent. loan of 1869; two per cent. on face of $2,852,500 bonds outstanding, purchasable, say, at sixty cents.....	34,230 00	
Interest on face at seven per cent.....	199,675 00	
		233,905 00
6. Seven per cent. loan of 1870; two per cent. on face of $3,000,000 bonds outstanding, purchasable, say, at sixty cents.....	36,000 00	
Interest on face at seven per cent.....	210,000 00	
		246,000 00

7. Jefferson City bonds; two per cent. on face of $295,000 outstanding, purchasable, say, at sixty-five cents.....	3,835 00	
Interest on face at eight per cent.....	23,600 00	
		27,435 00
8. Street improvement loan; two per cent. on face of $384,000 bonds outstanding, purchasable, say, at sixty-two cents.....	4,761 60	
Interest on same at seven and three-tenths per cent.....	28,032 00	
		32,793 60
9. Ten per cent. loan; ten per cent. on face of $1,148,350 bonds outstanding.....	114,835 00	
Interest on face.....	114,835 00	
		229,670 00
10. McDonogh school fund; interest on $109,000 due by the city.....		6,540 00
11. Fink Asylum loan; interest on $48,000 due by the city at six per cent.....		2,880 00
12. New consolidated debt (gold bonds, general series); two per cent. on face of $2,000,000 outstanding, purchasable, say, at sixty cents.....	26,400 00	
Interest on face in gold, at seven per cent. $140,000 gold premium currency at ten per cent., $14,000.....	154,000 00	
		180,400 00
		$1,967,676 30

To be paid out of drainage tax:

1. Interest on $1,050,000 of new consolidated gold bonds, drainage series, at seven per cent. gold, estimated premium in currency, ten per cent.....	80,850 00
2. Attorney's fees on collection for second drainage district, ten per cent. on tax.....	2,000 00
3. Salaries of chief clerk & assistant.....	4,200 00
4. Stationery and advertising.....	500 00
	$87,550 00

To be paid out of levee dues:

1. Interest on wharf bonds, say, $700,000, at seven and three-tenths per cent.....	51,100 00
2. Repurchase of wharf bonds, one-tenth of $700,000...	70,000 00
	$121,100 00

To be paid from market revenues:

1. To the Louisiana National B'k, fiscal agent, for the payment of interest and liquidation of principal of loan, according to ordinance No. 1832, administration series, all the said revenue, estimated at..... 260,000 00

141 To be paid out of the city park tax:

1. One-eighth of one per cent. to be levied and collected on all assessed property, $130,913,356..... $163,641 69

To be paid out of paving assessments:

1. Principal and interest on street assessment bonds..... 1,115 00

To be paid out of the tax for current expenses and other revenues and receipts not otherwise appropriated or set apart by law:

Streets:

1. For materials for keeping streets, gutters, and bridges in repair	9,200 00	
2. Wages of laborers and cart hire, keeping streets, gutters, and bridges in repair.....	267,797 00	
3. Salaries of employees in bureau of streets engaged in supervision of street contract and repairs	38,800 00	
		315,797 00

City drainage:

1. Repairs and fuel for draining machines...	17,000 00	
2. Wages of engineers, firemen, and laborers of draining machines	24,000 00	
3. Materials, supplies, and general service..	24,000 00	
Amount carried over	65,000 00	
142	65,000 00	
4. Wages of laborers on excavations, embankments, &c	72,000 00	
5. Salaries of clerks in bureau of city drainage	3,600 00	
		140,600 00

Wharves & landings—department of improvements:

1. Materials for repairs of wharves and landings	10,000 00	
2. Wages of laborers in keeping wharves and landings in repair	48,000 00	
3. Salaries of employés in bureau of wharves and landings engaged in supervision of contracts and repairs..	12,000 00	
4. Towing nuisance boats and repairs.....	4,616 00	
		74,616 00

	Wharves & landings—depart't of commerce:		
1.	Wages of laborers		7,800 00
	Surveyor:		
1.	Salary of surveyor & employés engaged in his office	14,889 98	
2.	Wages of superintendent, draughtsman, chain carriers, &c	34,180 08	
3.	Office expenses	3,500 00	
			52,580 06
	Water works:		
1.	Fuel, machinery, repairs, and supplies for engines	30,000 00	
2.	Pipes, replacing pavement, and cost of extension	25,000 00	
143 3.	Salaries of superintendent, engineers and employés of water works proper	18,000 00	
4.	Salaries of book-keeper, collectors, assessors of water rents, spanner men, and messengers of water-works office	15,000 00	
5.	Wages of laborers', "street service," water works proper	10,000 00	
6.	Rent of building for water-works office	1,200 00	
			99,200 00
	Public buildings:		
1.	City hall repairs	1,000 00	
2.	City hall expenses, comprising janitor's supplies, ice, &c	1,250 00	
3.	Court-houses, repairs, furniture, fuel, &c.	2,500 00	
4.	Court-houses, salary of keeper	2,400 00	
5.	Market-houses, repairs	2,500 00	
6.	School-houses, repairs	5,000 00	
7.	Cleaning sinks of public buildings, as per contract	4,500 00	
8.	Repairs to public buildings not otherwise enumerated	5,000 00	
			24,150 00
	Public squares, pounds, and cemeteries:		
1.	Supplies, for repairs and improvement of squares	1,200 00	
2.	Salaries of superintendent, gardner, & watchmen of squares	5,200 00	
3.	Wages of laborers and cart-hire of public squares	4,800 00	
144 4.	Salaries of keepers of public pounds	4,800 00	
5.	Rent of pounds	1,500 00	
6.	Repairs to cemeteries	1,000 00	
			18,500 00

Fire department:		
1. Firemen's Charitable Association, city contract	140,000 00	
2. Fifth district, Algiers	8,400 00	
3. Sixth " Jefferson City	13,600 00	
		162,000 00
Printing:		
1. Printing proceedings of city council	3,000 00	
2. Printing promulgation of ordinances	3,000 00	
3. Publishing list of delinquent tax-payers	6,000 00	
4. Printing reports, advertisements of proposals, &c	5,000 00	
		17,000 00
Lighting:		
1. Streets, market-houses, and public squares, gas-lamps (by contract), and lights for all public buildings	200,000 00	
2. Streets, oil-lamps by contract	35,000 00	
		235,000 00
Criminal court:		
1. Rent of building ($250 per month)	3,000 00	
2. Clerk's fees	15,000 00	
3. Sheriff's fees	15,000 00	
4. Grand & petty jury, warrants	10,000 00	
5. Districtattorneys' fees for criminal convictions	7,000 00	
		50,000 00
145 Municipal police courts:		
1. Salaries of judges, clerks, and employés (fixed by act of legislature No. 93, 1873). $3,226.66⅔ per month	38,720 00	
2. Stationery, ice, fuel, &c.	4,000 00	
3. Conveying prisoners to and from court, comprising repairs to black-maria, purchase and forage for horses	2,000 00	
		44,720 00
City workhouse:		
1. Provisions, clothing, medicine, fuel, &c.	10,500 00	
2. Salaries of chief warden, deputies, and employés	7,300 00	
		17,800 00
Boys' house of refuge:		
1. Provisions, clothing, fuel, medicines, &c.	7,500 00	
2. Flour for bakery	7,500 00	
3. Salaries of superintendent & employés	5,520 00	
		20,520 00
Parish prison:		
1. Keeping and maintenance of prisoners, and turnkey's fees and expenses		30,000 00

City attorney:		
1. Salaries of city attorney and employés..	17,680 00	
2. Office expenses	1,500 00	
		19,180 00
Charity:		
1. Support of orphans and aged in-		
146 firm and indigent in public asy-		
lums (payable quarterly)	34,000 00	
2. Support of small-pox patients.....	15,000 00	
3. Aged, infirmed, and indigent: for provisions, supplies, and attendance for inmates of Home of Aged and Infirm	5,000 00	
4. Cost removal of sick to hospital and burial of indigent dead	3,000 00	
5. Insane asylum, for provisions, clothing, fuel, medicines, repairs, &c.....	15,000 00	
6. Salaries of superintendent and employés in same	6,000 00	
7. Recording deaths, on certificates of coroners and officers of charity hospital..	800 00	
8. Salaries of city physicians appointed by board of health	1,200 00	
		80,000 00
Coroners:		
1. Inquests, views, burials, and jury warrants for holding inquests		15,000 00
Sanitary expenses:		
1. Salaries of sanitary inspectors appointed by the board of health, and for disinfectants		8,000 00
Tax bills 1874:		
1. Compensation for extra clerks in making out tax bills.....	6,000 00	
2. Printing and binding tax bills, ledgers, indexes, stationery, &c.....	1,600 00	
		7,600 00
147 Tax mortgage registers:		
1. Salaries of clerks employed on same, as authorized by act 73 of 1872	3,500 00	
2. Blank books, stationery, &c.....	1,000 00	
		4,500 00
Office expenses (administration):		
1. Office expenses of mayor, $500, subject to his order.....	1,000 00	
2. Office expenses city council	300 00	
3. " " department of finance..	1,750 00	
4. " " " commerce.....	750 00	
5. " " " assessments.....	4,000 00	
6. " " " improvem'ts & bureaus.....	6,000 00	

7.	"	"	" police (including blanks)..	2,000 00	
8.	"	"	" public accounts	2,500 00	
9.	"	"	" water works, &c	250 00	
					18,550 00
			Administration (salaries):		
1.			Salaries of mayor & administrators...	49,500 00	
2.			Secretary, clerks, & employés in mayor's office.....	10,500 00	
3.			Janitor and porters of city hall building	4,080 00	
4.			Secretary and assistant secretary of council	2,700 00	
5.			Librarian.....	1,800 00	
6.			Clerks and employés of department of finance.....	26,000 00	
7.			Clerks and employés of department of public accounts.....	26,000 00	
8.			Secretary and employés in collection of levee dues, and superin-		
148			tendent of markets, depart't of commerce.....	20,000 00	
9.			Salary of clerks and employés of department of water works and public buildings.....	5,000 00	
10.			Secretary and clerks in department of assessments	33,000 00	
11.			Salaries of clerks and employés of department of improvements.....	6,000 00	
12.			Secretary, clerks, and messenger of department of police.....	5,000 00	
13.			Keeper of archives.....	1,800 00	
					191,380 00
			Metropolitan police:		
1.			Salaries and expenses.....		400,000 00
			Reimbursement of taxes.....		1,000 00
			Law charges:		
1.			Costs of courts, city attorney's briefs, notarial contracts, attorney's fees, &c		20,000 00
			Notarial records:		
1.			Rent of building for central office as per act of the legislature approved March 28th, 1867, at fifty dollars per month.....		600 00
			Bills payable		8,760 37
			Interest current accounts		5,000 00
			Judgments		15,000 00
149			Contingent		18,000 00

Rent of building (Davidson's court) for metropolitan police central station	4, 200 00
Total for current city expenses	$2, 127, 053 43

RECAPITULATION.

City debt expense	$1, 967, 676 30
Drainage liabilities	87, 550 00
Interest and repurchase of wharf bonds	121, 100 00
Interest & on account of loan to La. National B'k	260, 000 00
New Orleans park	163, 641 69
Principal & interest on street assessment bonds	1, 115 00
Amount current city expenses (including police)	2, 127, 053 42
Total	$4, 728, 136 42

Adopted by the council of the city of New Orleans. Yeas: Brewster, Calhoun, Fitzenreiter, Lewis, Schneider, Sturcken, Turnbull.

(Signed) LOUIS A. WILTZ, *Mayor.*

A true copy.

(Signed) DANIEL SCULLY, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 2393, administration series.

[SEAL.] (Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk, Mayor's Office.

150 *Document marked V, offered in evidence by plaintiff.—Filed Oct. 23d,* 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 4th, 1874.

No. 2828, administration series. An ordinance to amend and readjust the budget of 1874.

Whereas, since the adoption of the budget for 1874, necessity has arisen for extraordinary expenditures caused by the danger of overflow to the city from the unprecedent*al* high water in April last, and further, by the several acts of the legislature, to wit, annexing the city of Carrollton, creating the superior criminal court, establishing a new registration of voters, and other causes equally imperative in their nature, and in consequence of which certain items of appropriation in the budget have been exhausted: Be it ordained by the council of the city of New Orleans, That the following budget appropriations be, and are hereby, increased by the addition of the sums herein expressed, viz:

Streets, materials, &c		28,000 00
Wharves & landings, materials, &c		7,000 00
Draining machines, materials, &c		10,000 00
Wages, wharves and landings		35,000 00
Wages, drainage		6,000 00
Wages, water-works		5,500 00
	Criminal, sheriff's fees	15,000 00
151	Inquests	14,000 00
	Law charges	45,000 00
Printing tax list, 1874		1,650 00
Parish prison		36,000 00
Superior criminal court, stationery, &c		1,500 00
Office expenses, tax-bill makers		200 00
Office expenses, municipal police courts		300 00
Repairs, &c., court-houses		7,600 00
Repairs, &c., school-houses		400 00
Repairs, &c., public buildings		3,600 00
Salaries, &c., sanitary inspectors		4,500 00
Salaries, &c., department of commerce		5,500 00
Salaries, &c., clerks of tax-mortgage registers		4,000 00
House of refuge, provisions, &c		2,500 00
House of refuge, flour for bakery		5,500 00
Repairs, &c., city hall building		2,500 00
Recording births and deaths		300 00
Total increase		$241,550 00

Be it further ordained, &c., that the following budget appropriations be, and are hereby, decreased by the reduction of the sums, as herein set forth, viz:

Wages, streets		20,000 00
Drainage, materials, &c		4,000 00
Salaries, bureau of streets		3,000 00
Salaries, bureau of drainage		2,000 00
Salaries, bureau of wharves & landings		5,000 00
Salaries, department of improvements		2,000 00
Salaries, department of public accounts		3,000 00
Salaries, water-work's office		600 00
Salaries, water works proper		1,800 00
	Salaries, depart't water-works & pub'c buil's	400 00
152	Salarys, insane asylum	300 00
	Salarys, department of police	800 00
Office expenses, depart't of improvements		2,000 00
Office expenses, depart't of police		1,000 00
Office expenses, depart't of assessments		1,500 00
Office expenses, depart't of water works and public buildings		100 00
Office expenses, city attorney		500 00
Office expenses, tax-mortgage registers		800 00
Office expenses, surveyor		500 00
Wharves & landings, towing nuisance boats		1,000 00
Aged, infirm, and indigent		500 00

Cost of removal of sick & dead	1,000 00
Printing proceedings of council	500 00
Reports, advertisements, &c	500 00
Repairs & cemeteries	900 00
Water works, machinery, &c	8,000 00
Water-works extension, &c	7,936 00
Support of small-pox patients	3,000 00
Wages, department of commerce	5,500 00
Public squares	300 00
Judgments	15,000 00
Clerks' fees, superior criminal court	5,000 00
Total	$98,436 00

Adopted by the council of the city of New Orleans Novem. 3d, 1874.
Yeas: Calhoun, Fitzenreiter, Lewis, Schneider, Sturcken, Turnbull.
(Signed) LOUIS A. WILTZ, *Mayor.*

A true copy.
(Signed) DANIEL SCULLY, *Secretary.*

153 MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 2828, administration series.
[SEAL.] (Signed) A. H. ISAACSON,
Acting Mayor.
(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked U, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 13th, 1875.

No. 2931, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans for the year 1875.

Be it ordained by the council of the city of New Orleans, That in conformity with section fourteen of an act of the legislature, No. 73, approved April 26th, 1872, and act No. 53, approved March 12th, 1874, the following estimate of expenditures (including police and schools) for the year 1875 be, and the same is hereby, adopted:

To be paid from the city debt tax:

Consolidated bonds, interest at six per cent	272,467 50
Railroad bonds due May 1st, 1874, exchangeable for new consolidated gold bonds, or with privilege	
154 of renewal, as per ordinance No. 2898, administration series, interest at six per cent	175,440 00
Pontchartrain Railroad bonds, interest at six per cent	6,780 00
Water-works bonds, interest at five per cent	69,620 00
Seven per cent. loan, 1869, interest at seven per cent	199,465 00

Seven per cent. loan, 1870, interest at seven per cent.....		210,000 00
Jefferson City bonds, interest at eight per cent.....		23,600 00
Street improvement loan, interest at seven and three-tenths per cent.....		32,558 00
Ten per cent. loan, interest at ten per cent.....		114,360 00
McDonogh school fund, interest at six per cent.....		6,540 00
Fink Asylum loan, interest at six per cent.....		2,880 00
New consolidated debt (gold bonds, general series), interest on $2,558,000, at seven per cent., $179,000 gold; premium on currency, at 111, $16,696.66.....		198,756 66
Carrolton bonds, interest at eight per cent.....		15,544 00
Total.....		$1,328,011 16
To be paid from drainage tax:		
New consolidated gold bonds, drainage series, interest seven per cent., estimated premium in currency 111.....		127,583 40
Attorneys' fees on collections for second district, as per contract, ten per cent.....	2,100 00	
Salaries and office expenses.....	3,500 00	
		133,183 40
To be paid out of wharfage or levee dues:		
Wharf bonds, interest at seven and three-tenths per cent.-redemption.....	51,000 00	
One-tenth.....	70,000 00	
		121,000 00
To be paid out of market revenues:		
To the Louisiana National B'k, late fiscal agent, on account of interest and principal of loan.....		120,000 00
To be paid out of city park tax:		
One-eighth of one per cent. on assessment for $1,192,985.04		149,123 13
To be paid out of paving assessments:		
Street assessment bonds, interest at seven and three-tenths per cent.....		689 85
To be paid out of public school tax:		
As per estimate of school board.....		298,246 26
To be paid out of police tax:		
As per estimate of board of commissioners, not to exceed.....		590,000 00

156 To be paid out of tax for current city expenses and other revenues not otherwise appropriated or set apart by law:

Department of improvements:		
Streets, materials, etc	25,000 00	
Do. salaries & wages	179,480 00	
Drainage, materials, &c	15,000 00	
" salaries & wages	17,000 00	
Wharves & landings, materials, &c	18,616 00	
" " salaries & wages	35,000 00	
Administrator's office, salaries	3,440 00	
Administrator's office, expenses	2,500 00	
Surveyor, salaries and wages	16,000 00	
Do. expenses	2,500 00	
		314,536 00
Department of water works and public buildings:		
Water works, pipes, machinery, &c	30,000 00	
Do. salaries and wages	43,000 00	
Administrator's office, salaries	4,000 00	
Do. do. expenses (office)	250 00	
Insane asylum, provisions, rent, &c	13,000 00	
Do. do. salaries	6,000 00	
Court-house, repairs and salary of keeper	5,400 00	
Market houses, repairs	2,500 00	
School-houses, repairs	5,000 00	
City hall building, repairs and office expenses	2,000 00	
Public buildings, repairs (other than enumerated)	6,000 00	
157 Small-pox hospital, salaries, supplies, &c	12,000 00	
Public sinks	4,500 00	
Home of aged and infirm	4,500 00	
		138,150 00
Department of police:		
Administrator's office, salaries	3,980 00	
" " expenses (office)	800 00	
Public squares, salaries, wages, &c	7,200 00	
Public pounds, salaries & rents	5,800 00	
Work-house, provisions, &c	8,000 00	
Do. salaries	6,550 00	
Boys' house of refuge, provisions	14,000 00	
Do. Do. salaries	5,520 00	
Cost removal sick, &c	2,000 00	
		53,850 00
Department of commerce:		
Salaries and wages	29,000 00	
Office expenses	500 00	
		29,500 00

Department of assessments:		
Salaries	25,600 00	
Office expenses	2,500 00	
		28,100 00
Department of finance:		
Salaries	20,000 00	
Office expenses	1,400 00	
		21,400 00
Department of public accounts:		
Salaries	15,000 00	
Office expenses	2,000 00	
		17,000 00
158 Criminal justice:		
Superior criminal court, salaries and stationery	11,000 00	
Superior criminal court, clerks' fees	4,000 00	
First district court, clerks' fees	10,000 00	
Criminal sheriffs' fees	15,000 00	
District attorney's fees	7,000 00	
Jury commissioners' salaries	1,000 00	
Municipal police courts, salaries, stationery, &c	25,000 00	
Municipal police courts, expenses "Black Maria"	1,500 00	
Parish prison, maintenance of prisoners	40,000 00	
Rent, first district court	3,000 00	
Do. Central Metropolitan Police Station	4,200 00	
		121,700 00
Mayor's office:		
Salaries of employés	8,100 00	
Office expenses	700 00	
		8,800 00
City-hall building:		
Salaries of librarian, keeper of archives, janitor, and porters		5,580 00
City council:		
Salary of secretary and assistant	2,700 00	
Office expenses	300 00	
		3,000 00
Printing:		
Proceedings of council	2,000 00	
Promulgation of ordinances	2,500 00	
Tax-lists	4,000 00	
159 Reports, advertisements, &c	2,000 00	
		10,500 00
Tax bills, etc.:		
Making tax bills	6,000 00	
Tax mortgage registers' salaries & station'y	5,050 00	

Printing tax bills, stationery, &c	2,000 00	
Reimbursement of taxes	500 00	
		13,550 00
City attorney:		
Salaries	10,000 00	
Office expenses	1,000 00	
		11,000 00
Board of health:		
Sanitary inspectors' salaries, &c	8,000 00	
City physicians' salaries	1,200 00	
		9,200 00
Lighting:		
Gas lamps and public offices	135,000 00	
Oil lamps	20,000 00	
		155,000 00
Fire department:		
City contract with Firemens' Charitable Association	140,000 00	
Fifth district	8,400 00	
Sixth do.	15,000 00	
Seventh do. Firemens' Charitable Ass'n	5,000 00	
		168,400 00
Mayor and administrators:		
Salaries		49,500 00
Law charges		30,000 00
Support of orphans		34,000 00
160 Judgments		15,000 00
Contingent		50,000 00
Coroners		12,000 00
Recording deaths		800 00
Interest (current accounts)		5,000 00
Total for current city expenses		$1,305,566 00

RECAPITULATION.

City debt expense	1,328,011 16
Drainage liabilities	133,183 40
Interest and repurchase of wharf bonds	121,100 00
Loan of Louisiana National Bank	120,000 00
New Orleans Park	149,123 13
Interest on street assessment bonds	689 85
Public schools	298,246 26
Metropolitan police	590,000 00
City current expense	1,305,566 00
Grand total	$4,045,919 80
Election and registration expenses for 1874	30,000 00
Grand total	$4,075,919 80

Adopted by the council of the city of New Orleans January 12th, 1875, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Bouny, Burke, Landry, McCarthy, Pilsbury.

(A true copy.)

(Signed) J. H. HARDY, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

161 We hereby certify the foregoing to be a true copy of ordinance No. 2931, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked T, offered in evidence by plaintiff.—Filed October 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Dec. 30, 1874.

No. 2898, administration series. An ordinance adopting an estimate of the receipts and revenues of the city of New Orleans for the year 1875.

Be it ordained by the council of the city of New Orleans, That in conformity with the several acts of the legislature relative thereto, the following estimate of the receipts or revenues of the city of New Orleans for the year 1875 be, and the same is hereby, adopted:

1. Taxes of 1875 on the valuation of taxable property, as per assessment rolls, amounting to a total of 119,298,504 at two and a half per cent	2,982,462 60
2. Licenses on professions, callings, &c	450,000 00
3. Market revenues, pledged as per ordinance No. 1832, adm'n series	260,000 00
4. Fines and fees	20,000 00
5. City railroads	7,500 00
6. Interest, law charges, and printing (reimbursemen')	15,000 00
162 7. Ground rents	3,600 00
8. Bills receivable	5,700 00
9. Pound fees	1,000 00
10. Cemeteries	2,000 00
11. New Orleans Sugar Shed Company	2,000 00
12. Water rents	125,000 00
13. Wharf dues (special pledge for payment of interest and redemption of wharf bonds), amount required for 1875, $121,000	240,000 00
14. Street assessment, capital and interest due	1,308 48
15. Drainage tax first drainage district	19,000 00
Do. second " "	21,000 00
Do. third " "	24,000 00
Do. fourth " "	10,000 00
16. Miscellaneous	5,000 00
Total	$4,194,571 08

Adopted by the council of the city of New Orleans Decem. 29th, 1874, the veto of the mayor to the contrary notwithstanding. Yeas: Bertoli. Brown, Bouny, Burke, Landry, McCarthy, Pilsbury.

A true copy.

(Signed) J. H. HARDY,
Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

I certify the foregoing to be a true copy of ordinance No. 2898, administration series.

(Signed) A. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

163 *Document marked S, offered in evidence by plaintiff.—Filed Oct. 3d, 1879.*

MAYORALTY OF NEW ORLEANS,
City Hall, December 29th, 1875.

No. 3345, administration series. An ordinance to adjust certain items of appropriation in the budget of 1875.

Be it ordained by the council of the city of New Orleans, That the following sums be, and are hereby, transferred from the unexpended balances of appropriation in the budget of 1875 to such items in said budget as are exhausted, to wit:

INCREASE.

Streets, materials, etc	12,000 00
Streets, salaries and wages	39,000 00
Drainage, materials, etc	8,000 00
Water works, salaries and wages	3,000 00
Home aged and infirm	1,000 00
Administrator's office, dep't of police	250 00
Public square, salaries and wages	1,000 00
Work-honse, salaries	100 00
Superior criminal court, salaries	800 00
Do. do. do. clerk's fees	3,000 00
First district court, clerk's fees	6,000 00
Criminal, sheriff's fees	9,100 00
District attorney's fees	3,500 00
Municipal police court's salaries and expenses	9,000 00
Parish prison	32,000 00
City Hall building, salaries	500 00
Promulgation of ordinances	550 00
Reports, advertisements, &c	2,100 00
164 City attorney's office, salaries	400 00

Board of Health, sanitary expenses	9,000 00
Lighting gas lamps & public offices	5,000 00
Lighting oil lamps	13,000 00
Law charges	20,000 00
Support of orphans	100 00
Recording deaths	200 00
Surveyor, salaries and wages	2,500 00
Total	181,100 00

DECREASE.

Drainage, salaries and wages	1,500 00
Wharves and landings, salaries and wages	14,500 00
Administrator's office, department of improvements	900 00
Administrator's office, expenses	1,000 00
Surveyor's office, expenses	1,700 00
Water works, machinery, &c	5,000 00
Water works, administrator's office, salaries, &c	200 00
Insane asylum, provisions, rent, &c	1,000 00
Court-houses, repairs and salary of keeper	600 00
Small-pox hospital, supplies, &c	1,200 00
Department of commerce, salaries and wages	7,000 00
Department of assessment, salaries	13,100 00
Mayor's office, expenses	300 00
City council, salaries	100 00
City council, office expenses	230 00
Printing tax ledgers, bills, &c	1,000 00
City attorney, office expenses	350 00
Judgments	6,925 00
165 Interest current accounts	5,000 00
Contingent	119,495 00
Total	$181,100 00

Adopted by the council of the city of New Orleans December 28th, 1875.

Yeas: Bertoli, Brown, Bonny, Burke, Landry, McCarthy, Pilsbury.

(Signed) CHAS. J. LEEDS, *Mayor*.

A true copy.

(Signed) J. H. HARDY, *Secretary*.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3345, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked R, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 4th, 1876.

No. 3349, administration series. An ordinance adopting an estimate of the receipts or revenues of the city of New Orleans for the year 1876.

Be it ordained by the council of the city of New Orleans, That
166 the following estimate of receipts or revenues of the city of New Orleans for the year 1876 be, and the same is hereby, adopted:

Tax one and one-half per cent. on the valuation of real estate and personal property, as per assessment rolls, on a total of 119,045,515		$1,785,682 72
Licenses	350,000	
Less outstanding metropolitan police warrants	80,000	
		270,000
Market revenues	220,000	
Less due Louisiana Nat'l Bank	150,000	
		70,000 00
Water works		125,000 00
Wharves & landings, from lessees		30,000 00
Law charges		30,000 00
Fines and fees		10,000 00
City railroads bonus		5,000 00
Cemeteries		1,500 00
Ground rents		4,500 00
Bills receivable		10,000 00
Pound fees		500 00
Sugar Shed Company		1,000 00
Street assessments		1,000 00
Miscellaneous		5,000 00
		2,349,182 72
Outstanding taxes and interest estimated collectable	2,000,000	
Less unpaid ordinances	900,000	
		1,100,000 00
		$3,449,182 72

Adopted by the council of the city of New Orleans January 4th, 1876, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Burke, Landry, McCarthy, Pilsbury.
167 Nays, Bonny—1.

A true copy.

(Signed) J. H. HARDY, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3349, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked Q, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 28th, 1876.

No. 3746, administration series. An ordinance to adjust certain items of appropriation in the budget of 1876.

Be it ordained by the council of the city of New Orleans, That the following sums be, and are hereby, transferred from the unexpended balances of appropriation in the budget of 1876 to such items in said budget as are exhausted, to wit:

INCREASE.

	Department of improvements:	
	Administrator's office	600 00
	Streets, wages, &c	19,000 00
	Department of water works & public buildings:	
168	Repairs to buildings	600 00
	Water works, salaries, and wages	5,000 00
	Department of public accounts:	
	Tax-mortgage registers	150 00
	Printing reports, advertisements, &c	3,800 00
	Lighting city:	
	Gas	1,000 00
	Oil	6,000 00
	Recording deaths	200 00
	Board of health disinfectants	1,000 00
	Superior criminal court clerk's fees	2,500 00
	First district court clerk's fees	700 00
	District attorney's fees	1,500 00
	Criminal sheriff's fees	2,500 00
	Parish prison	17,000 00
	Municipal police courts, salaries and expenses	29,300 00
	Police officers municipal police courts	5,000 00
	Fifth and seventh justice courts	3,000 00
	Law charges	2,500 00
	Contingent	5,000 00
	Total	$106,350 00

DECREASE.

Department of improvements:	
Streets, repairs, &c	10,600 00
Bridges, crossings, and wings	18,000 00
Draining machines, &c	2,500 00
Wharves and landings	5,900 00
Surveyor's department:	
Drainage, general service	2,000 00
Department of water works and public buildings:	
169 Insance-asylum	400 00
School-houses, repairs	5,000 00
Water works, pipes, machinery, &c	15,000 00
City hall building, repairs, &c	750 00
Small-pox hospital	3,500 00
Public sinks	650 00
Department of police:	
Administrator's office	300 00
Work-house, provisions, &c	800 00
Boys' house of refuge	1,000 00
Public squares	1,300 00
Public pounds	250 00
Cost of removal of sick and dead	650 00
Black-maria	400 00
Board of health:	
Salaries, sanitary inspectors	1,400 00
Salaries sanitary police officers	1,300 00
Department of finance	2,000 00
Department of public accounts	1,400 00
Department of commerce	1,000 00
Printing tax ledgers, bills, &c	200 00
Fire department, contingent &c	600 00
Interest current, accounts	5,000 00
Judgments	24,450 00
Total	106,350 00

Adopted by the council of the city of New Orleans, November 28th, 1876.

Yeas: Bertoli, Brown, Bonny, Burke, Landry, McCarthy.

(Signed) CHS. J. LEEDS, *Mayor.*

A true copy.

(Signed) J. H. HARDY, *Secretary.*

170 MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3746, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked P, offered in evidence by plaintiff.—Filed October 23d, 1879.

No. 3358, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans for the year 1876.

Be it ordained by the council of the city of New Orleans, that the following estimate of expenditures (including police and schools) for the year 1876, be, and the same is hereby adopted:

Department of improvements:		
Streets, wages, &c	206, 600 00	
" repairs, &c	68, 625 00	
" bridges, crossings, & wings	80, 025 00	
Draining machines	40, 500 00	
Wharves and landings	7, 800 00	
Administrator's office, salaries & expenses	4, 500 00	
		$408, 050 00
Surveyor's office:		
Salaries and office expenses	18, 520 00	
Drainage, expenses, &c	5, 120 00	
		23, 640 00

171 Department of water works and public buildings:

Water works, pipes, machinery, &c	30, 000 00	
Do. salaries and wages	40, 000 00	
Administrator's office, salaries and expenses	4, 050 00	
Insane asylum, provisions, rent, salaries, &c	19, 150 00	
Court-houses, repairs and salary of keeper	5, 400 00	
Market-houses, repairs, &c	2, 500 00	
School-houses	5, 000 00	
Public building (other than enumerated)	6, 000 00	
Small-pox hospital	9, 000 00	
Visiting physicians	3, 000 00	
Public sinks	4, 500 00	
Home of Aged and Infirm	5, 000 00	
City hall building, repairs and office expenses	2, 000 00	
		135, 600 00

Department of police:		
Administrator's office, salaries and expenses	4,480 00	
Public squares, salaries and wages	7,200 00	
Public pounds, salaries and rents	5,600 00	
Work house, provisions, salaries, &c	14,150 00	
Boys' house of refuge, provisions, salaries, &c	19,020 00	
Cost removal sick and dead	2,000 00	
		52,450 00
172 Department of commerce:		
Salaries and wages	25,300 00	
Office expenses	500 00	
		25,800 00
Department of finance:		
Salaries	20,000 00	
Office expenses	2,000 00	
		22,000 00
Department of public acc'ts:		
Salaries	13,000 00	
Office expenses	20,000 00	
		15,000 00
Department of assessments:		
Salaries	5,100 00	
Office expenses	400 00	
Assessment rolls (State)	16,000 00	
		21,500 00
Mayor's office:		
Salaries	5,400 00	
Office expenses	860 00	
		6,500 00
City hall building:		
Salaries of librarian, keeper of archives, janitor, and porters		5,000 00
City council:		
Salary of secretary and assistant	2,700 00	
Stationery, &c	300 00	
		3,000 00
Printing:		
Proceedings of council & promulgation of ordinances	4,500 00	
Tax bills, reports, and advertisements	6,000 00	
		10,500 00
173 Tax bills, etc.:		
Tax mortgages, registers, salaries, and stationery	4,500 00	
Printing tax ledgers, bills, &c	1,500 00	
Making tax bills	6,000 00	
		12,000 00

City attorney:		
Salaries	10,400 00	
Office expenses	1,000 00	
		11,400 00
		$752,440 00
Board of health:		
Salaries, sanitary inspectors	9,800 00	
" " police officers	8,100 00	
Disinfectants	3,000 00	
		20,900 00
Lighting city:		
Gas contracts	147,000 00	
Oil "	30,000 00	
		177,000 00
Fire departments:		
Firemen's charitable association, city	140,000 00	
Firemen's charitable association, 5th district	8,400 00	
Firemen's charitable association, 6th district	15,000 00	
Firemen's charitable association, 7th district	5,400 00	
Contingent, extra service	600 00	
		169,400 00
Mayor & administrators		49,500 00
174 Criminal justice:		
Superior criminal court, salaries and stationery	12,000 00	
Superior criminal court clerk's fees	12,000 00	
First district court clerk's fees	12,000 00	
Criminal sheriff, parish prison	65,000 00	
Criminal sheriff's fees	25,000 00	
District attorney's fees	7,500 00	
Jury commissioners	1,000 00	
Municipal police courts	20,000 00	
Fifth & seventh justices of the peace	10,000 00	
"Black-maria," conveying prisoners	1,500 00	
Rent, first district court	3,000 00	
Rent, metropolitan police station	4,200 00	
City physicians, salaries, &c	1,200 00	
Police officers on duty in municipal police courts	7,200 00	
		181,600 00
Miscellaneous:		
Law charges	30,000 00	
Support of orphans	36,788 00	
Coroners' salaries, &c	13,000 00	
Recording deaths	500 00	

Interest on current accounts	5,000 00	
Judgments	30,000 00	
		115,288 00
City debt, interest & redemption	307,500 00	
" " interest	1,000,000 00	
Metropolitan police, $499,000; estimated to be collectible	400,000 00	
Public schools, $297,000; estimated to be collectible	223,200 00	
175 Park	$50,000 00	
		$1,980,700 00
Contingent		2,354 72
Grand total		$3,449,182 72

Adopted by the council of the city of New Orleans, January 18th, 1876, the veto of the mayor to the contrary notwithstanding.

A true copy.

(Signed) J. H. HARDY, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3358, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked O, offered in evidence by plaintiff.—Filed October 23d, 1879.

No. 3793, administration series. An ordinance adopting an estimate of receipts or revenues of the city of New Orleans for the year 1877.

Be it ordained by the council of the city of New Orleans, That the following estimates of the receipts or revenues of the city of New Orleans for the year 1877 be, and the same is hereby, adopted:

Tax one and one-half per cent. on the valuation of real estate and personal property, as per assessment rolls on a total of $109,500,000			1,642,500 00
176 Licenses			350,000 00
Market revenues	220,000		
Less due Louisiana/ Nat'l B'k	120,000		
			100,000 00
Water works			75,000 00
Wharves and landings			15,000 00
Bills receivable			16,000 00
Law charges			30,000 00
Fines and fees			10,000 00
City railroads (bonus)			5,000 00
Cemeteries			1,500 00

Ground rents		4,500 00
Pound fees		500 00
Sugar Shed Company		1,000 00
Street assessments		1,000 00
Miscellaneous		5,000 00
Total		2,257,000 00
Uncollected revenues for back years, estimated good for (exclusive of public schools, &c.)	2,250,000	
Less unpaid ordinances, appropriation certificates, &c	1,650,000	
		600,000 00
Grand total		$2,857,000 00

Adopted by the council of the city of New Orleans, Decem. 30th, 1876.
Yeas: Brown, Denis, Diamond, Edwards, Reugstorff.

(Signed) E. PILSBURY, *Mayor.*

A true copy.

(Signed) THOS. G. RAPIER, *Secretary.*

177 MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3793, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked N, offered in evidence by plaintiff.—Filed Oct. 23d, 1879

MAYORALTY OF NEW ORLEANS,
City Hall, January 11th, 1877.

No. 3795, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans for the year 1877.

Be it ordained by the council of the city of New Orleans, That the following estimate of expenditures (including police and schools), for the year 1877, be, and the same is hereby, adopted:

Department of improvements:

Streets, wages, &c	142,800 00	
" repairs, &c	35,400 00	
" bridges, crossings, & wings	30,000 00	
Draining machines	35,000 00	
Canals and draw-bridges	7,800 00	
Administrator's office, salaries and expenses	3,500 00	
		$254,500 00

178 Surveyor's office:

Salaries and office expenses	15,000 00

Department water works and public buildings:		
Water works, pipes, machinery, &c.....	30,000 00	
Do. salaries and wages.....	36,000 00	
Administrator's office, salaries and expenses.....	4,000 00	
Insane asylum, salaries, provisions, &c.....	15,000 00	
Court-houses, repair, and salary of keeper	3,000 00	
Public buildings (other than enumerated)..	1,500 00	
Small-pox hospital.....	6,000 00	
Visiting physicians.....	1,500 00	
Public sinks.....	3,000 00	
Home of aged and infirm.....	4,000 00	
City hall building, repairs and office expenses.....	1,000 00	
		105,000 00
Department of police:		
Administrator's office, salaries and expenses.....	4,480 00	
Public squares, salaries and wages.....	1,800 00	
Public pounds, salaries and rents.....	5,600 00	
Work-house, provision, salaries, &c.....	11,000 00	
Boys' house of refuge, provisions, salaries, &c.....	15,120 00	
179 Cost removal sick and dead.....	2,000 00	
		40,000 00
Department of commerce:		
Salaries, wages, and office expenses.....		20,000 00
Department of finance:		
Salaries and office expenses.....		22,000 00
Department of public accounts:		
Salaries and office expenses.....		15,000 00
Department of assessments:		
Salaries and office expenses.....		4,100 00
Mayor's office:		
Salaries and office expenses.....		6,250 00
City hall building:		
Salaries of librarian, keeper of archives, janitor, & porters..		5,000 00
City council:		
Salaries of secretary and assistant secretary, and stationery, &c.....		3,000 00
Tax-mortgage registers:		
Salaries and stationery.....		4,500 00
City attorney:		
Salaries.....	10,400 00	
Office expenses.....	1,000 00	
		11,400 00

180	Mayor and administrators		49,500 00
	Printing:		
	Proceedings of council and promulgation of ordinances	4,500 00	
	Tax-bills, reports, & advertisements	6,000 00	
			10,500 00
	Tax bills, &c.:		
	Printing tax ledgers, bills, &c	1,500 00	
	Making tax bills	6,000 00	
			7,500 00
	Board of health:		
	Salaries sanitary inspectors	9,800 00	
	" " police	8,100 00	
	Disinfectants	3,000 00	
			20,900 00
	Lighting city:		
	Gas contracts	146,500 00	
	Oil do.	22,500 00	
			169,000 00
	Board of assessors (State):		
	Assessment rolls		16,000 00
	Fire department:		
	Firemen's charitable association, city	140,000 00	
	Firemen's charitable association, 5th district	12,000 00	
	Firemen's charitable association, 6th district	18,000 00	
	Firemen's charitable association, 7th district	8,000 00	
			178,000 00
181	Criminal justice:		
	Superior criminal court, salaries, and stationery	12,000 00	
	Superior criminal court clerk's fees	12,000 00	
	First district court clerk's fees	12,000 00	
	Criminal sheriff, parish prison	65,000 00	
	Criminal sheriff's fees	26,500 00	
	District attorney's fees	9,000 00	
	Jury commissioners	1,000 00	
	Municipal police courts	50,000 00	
	Fifth and seventh justices of the peace	12,000 00	
	Black-maria, conveying prisoners	1,500 00	
	Rent, first district court	3,000 00	
	Rent, metropolitan police station	4,200 00	
	City physicians' salaries, &c	1,200 00	
	Police officers, municipal police courts	7,200 00	
			215,100 00

Miscellaneous:		
Law charges	30,000 00	
Support of orphans	37,000 00	
Coroners' salaries & rents, &c	13,000 00	
Recording deaths	500 00	
		80,500 00
City debt, interest & redemption	426,250 00	
Judgments	275,000 00	
Election expenses	30,000 00	
Park	75,000 00	
Metropolitan police	499,000 00	
Public schools, one-fourth of one per cent.	273,750 00	
		1,579,000 00
Contingent		25,250 00
Total		2,857,000 00

182 Adopted by the council of the city of New Orleans January 11th, 1877.

Yeas: Brown, Cavanac, Denis, Diamond, Edwards, McCaffrey, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*

A true copy.

(Signed) THO'S G. RAPIER, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3795, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document, marked M, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, June 5th, 1877.

No. 3965, administration series. An ordinance to amend and revise the budget of the current year, in conformity to act No. 68, approved April 14th, 1877.

Be it ordained by the council of the city of New Orleans, That the following amended and revised budget of expenditures and receipts
183 for the year 1877 be, and is hereby, adopted:

Department of improvements:

Streets, wages, &c	181,500 00
" repairs, &c	65,000 00
" bridges, crossings, and wings	42,000 00

Draining machines	39,000 00	
Canals and drawbridges	13,000 00	
Administrator's office, salaries and expenses	3,500 00	
		344,000 00
Surveyor's office:		
Salaries and expenses		15,000 00
Department of water-works and public buildings:		
Water works, pipes, machinery, &c	27,000 00	
Water works, salaries and wages	36,000 00	
Administrator's office, salaries and expenses	4,000 00	
Insane asylum, provisions, salaries, &c	19,000 00	
Court-houses, repairs and salary of keeper	8,000 00	
Public buildings (other than enumerated)	10,000 00	
Small-pox hospital and visiting physicians	22,000 00	
Public sinks	3,000 00	
Home aged and infirm	4,500 00	
City hall building, repairs and office expenses	2,000 00	
		137,000 00
184 Department of police:		
Administrator's office, salaries and expenses	5,517 07	
Public squares, salaries and wages	2,216 47	
Public pounds, salaries and rents	5,600 00	
Work-house, provisions and salaries, &c	11,546 36	
Boys' house of refuge, provisions, salaries, &c	18,620 10	
Cost removal sick and dead	2,000 00	
		45,500 00
Department of commerce:		
Salaries, wages, and office expenses		26,000 00
Department of finance:		
Salaries and office expenses		22,000 00
Department of public accounts:		
Salaries and office expenses		15,000 00
Department of assessments:		
Salaries and office expenses		15,000 00
Mayor's office:		
Salaries and office expenses		5,000 00
City hall building:		
Salaries, librarian, keeper of archives, janitor, and porters		5,000 00
185 City council:		
Salaries of secretary and assistant, and stationery		3,000 00
Tax-mortgage registers:		
Salaries and stationery		4,500 00

City attorney:		
Salaries and office expenses	11,400 00	11,400 00
Mayor and administrators		49,500 00
Printing:		
Proceedings of council and promulgation of ordinances, tax lists, reports, advertisements, &c		10,000 00
Tax bills, &c.:		
Printing tax ledgers, bills, &c., & making tax bills		6,000 00
Lighting city:		
Gas contracts	146,500 00	
Oil contracts	22,500 00	
		169,000 00
Fire department:		
Firemen's charitable association, city	140,000 00	
Firemen's charitable association, fifth district	12,000 00	
Firemen's charitable association, Sixth district	18,000 00	
Firemen's charitable association, 7th dist	8,000 00	
		178,000 00
186 Criminal justice:		
Superior criminal court	13,000 00	
First district court	7,500 00	
Criminal sheriff, court fees	22,000 00	
Criminal sheriff, parish prison	60,000 00	
District attorney's salary	5,000 00	
Jury commissioners	1,200 00	
Recorders' courts	40,000 00	
Black-maria	1,500 00	
Rents	7,200 00	
Police, recorders' courts	6,000 00	
		163,400 00
Miscellaneous:		
Law charges	20,000 00	
Support of orphans	37,350 00	
Coroners, salaries, rents, &c	13,000 00	
Board of health	15,500 00	
		85,850 00
City debt, interest & redemption	426,250 00	
Judgments	125,000 00	
Election expenses	31,000 00	
Park	75,000 00	
Police 325,000		
Expenses 35,000		
	360,000 00	
Public schools	225,000 00	
		$1,242,250 00
Contingent		18,900 00
		$2,571,300 00

RECEIPTS.

As adopted by ordinance No. 3793, administration series	2,857,000 00	
Less ten per cent	285,700	
		$2,571,300 00

Adopted by the council of the city of New Orleans May 29th, 1877.

187 Yeas: Cavanac, Denis, Diamond, Edwards, McCaffrey, Rengstorff—6.

Nay: Brown—1.

(Signed) ED. PILSBURY, *Mayor.*

A true copy.

(Signed) THOS. G. RAPIER, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3965, administration series.

(Signed) ALF. H. ISAACSON, *Acting Mayor.*

(Signed) E. L. BOWER, *Chief Clerk Mayor's Office.*

Document marked L, offered in evidence of plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Decem. 28th, 1877.

No. 4277, administration series.

Resolved, That the following sums be, and are hereby, transferred from the unexpended balances of appropriation in the budget of 1877 to such items in said budget as require to be increased to cover expenditure, to wit:

DECREASE.

	Department of improvement, streets, bridges, &c	35,000 00
188	Water works, pipes, machinery, &c	5,000 00
	Department water works and public buildings, administrator's office	500 00
	Insane asylum	3,400 00
	Public buildings	1,750 00
	Small-pox hospital	6,900 00
	Home, aged and infirm, &c	1,100 00
	Department of police, administrator's office	1,000 00
	Public pounds	980 00
	Work-house	3,500 00
	Department of finance	1,800 00
	Department of public accounts	1,100 00
	Department of assessments	2,500 00

Mayor's office	1,700 00
City council	200 00
City attorney	500 00
Printing	4,000 00
First district court	200 00
Recorders' courts	2,500 00
Coroners	600 00
	$74,230 00

INCREASE.

Department of improvements, administrator's office	400 00
Surveyor's office	1,100 00
Salaries and wages, water works	1,200 00
Court-houses	2,100 00
City Hall building	1,350 00
Public squares	5,500 00
Boys' house of refuge	700 00
Cost removal sick and dead	600 00
Department commerce	2,700 00
189 Tax bills, &c	960 00
Lighting city	5,000 00
Superior criminal court	650 00
Criminal sheriff's fees	1,500 00
Criminal sheriff, parish prison	1,300 00
Police recorder's courts	5,050 00
Law charges	1,620 00
Board of health	1,500 00
Judgments	41,000 00
Total	$74,230 00

Adopted by the council of the city of New Orleans December 26th, 1877.

(Signed) ED. PILSBURY, *Mayor.*

A true copy.

(Signed) THOS. G. RAPIER, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 4277, administration series.

(Signed) ALF. H. ISAACSON,
Act. Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked K, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Decem. 28th, 1877.

190 No. 4276, administration series. An ordinance adopting an estimate of receipts or revenues of the city of New Orleans for the year 1878.

Be it ordained by the council of the city of New Orleans, That the following estimate of the receipts or revenues of the city of New Orleans for the year 1878 be, and the same is hereby, adopted:

Tax one and one-half per cent. on the valuation of real estate and personal property, as per assessment-rolls, on a total of $111,123,695		1,666,855 00
Licenses		300,000 00
Market revenues	250,000 00	
Less due Louisiana National Bank	126,000 00	
		124,000 00
Water works		150,000 00
Wharves and landings		35,000 00
Bills receivable		10,500 00
Law charges, &c		30,000 00
Fines and fees		30,000 00
City railroads		5,000 00
Ground rents		5,000 00
Pound fees		1,000 00
Cemeteries		5,000 00
Sugar sheds		5,000 00
From State of Louisiana: claims for repairing levees and cash advanced insane asylum, Jackson, La		155,000 00
Miscellaneous		75,000 00
Total		$2,597,355 00
Reduced 10%, as per act No. 68, approved April 14, '77		259,735 00
Total		2,338,620 00

191 Adopted by the council of the city of New Orleans, Decem. 26th 1877.

Yeas: Brown, Cavanac, Denis, Diamond, McCaffrey, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*

A true copy:

(Signed) THOS. G. RAPIER, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, January 9th, 1878.

No. 4300, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans for the year 1878.

Be it ordained by the council of the city of New Orleans, That the follow-

ing estimate of expenditures (including police and schools) for the year 1878 be, and is hereby, adopted:

Department of improvements:		
Contracts for draining machines, cleaning and repairing streets, &c	192,000 00	
Drainage, canals, machinery, new works, &c., salaries, and office expenses	75,000 00	
		267,000 00
Surveyor's department:		
Salaries and office expenses		20,000 00
Department of police:		
Administrator's office, salaries and expenses	4,500 00	
Public squares, salaries & wages	5,000 00	
192 Public pounds, salaries and rents	5,100 00	
Work-house, building, salaries, forage, &c	5,000 00	
Boys' house of refuge, salaries, provisions, &c	13,500 00	
Cost of removal, sick and dead	2,500 00	
Public cemeteries, repairs, &c	1,500 00	
		37,100 00
Department of commerce:		
Administrator's office, salaries and expenses, wharves and markets	26,500 00	
Canals and drawbridges, salaries and expenses	7,000 00	
		33,500 00
Department of water works and public buildings:		
Administrator's office, salaries and expenses	3,000 00	
Water works, pipes, machinery, &c	26,000 00	
Water works, salaries and wages	36,000 00	
Court-houses, salaries and repairs	6,000 00	
Public buildings (not enumerated), repairs, &c	10,000 00	
Insane asylum, salaries and provisions	18,000 00	
Home, aged and infirm, salaries and provisions	4,500 00	
Public sinks contract	3,000 00	
City hall building, repairs, &c	6,000 00	
Support of small-pox patients and salary of visiting physicians	6,500 00	
		119,000 00
193 Department of finance:		
Salaries and office expenses		22,000 00
Department of public accounts:		
Salaries and office expenses		15,000 00

Department of assessments:		
Salaries and office expenses		18,000 00
Tax-mortgage registers:		
Salaries and stationery		4,500 00
Mayor's office:		
Salaries and expenses		5,000 00
City Hall building:		
Salaries, librarian, keeper of archives, janitor, and porter		6,000 00
City council:		
Salaries and stationery		3,000 00
City attorney's department:		
Salaries and office expenses		11,400 00
Printing and cost of tax-bills, ledgers, registers, &c		12,000 00
Mayor and administrators		49,500 00
Lighting city:		
Contracts with New Orleans and Jefferson Gas-Light Companies	121,000 00	
Contract for lighting with oil	22,000 00	
		143,000 00
Fire department:		
Firemen's charitable association, city	140,000 00	
Firemen's charitable association, fifth district	12,000 00	
Firemen's charitable association, sixth district	18,000 00	
Firemen's charitable association, seventh district	8,000 00	
Board of underwriters for Babcock machines	6,000 00	
		184,000 00
Board of health		15,000 00
Criminal justice:		
Superior criminal court	9,000 00	
First district court	6,500 00	
Criminal sheriff, parish prison, and court fees	75,000 00	
District attorney's salary	5,000 00	
Jury commissioners' salaries	1,200 00	
Recorders and justices of the peace courts and constables	30,000 00	
Black-maria	1,500 00	
Rents of courts and police stations	7,800 00	
		136,000 00
Miscellaneous:		
Support of orphans	39,504 00	
Law charges	20,000 00	

Coroners' salaries, &c		13,000 00	
Recording deaths		1,000 00	
Judgments		20,000 00	
	Interest and redemption	50,950 00	
195	City park	82,000 00	
	Police department	325,000 00	
Public schools		225,000 00	
			1,235,004 00
Total			$2,336,004 00
Contingent			2,616 00
Grand total			$2,338,620 00

Adopted by the council of the city of New Orleans January 12th, 1878.
Yeas: Brown, Cavanac, Denis, Diamond, Rengstorff—5.
Nays: McCaffrey—1.
(Signed) ED. PILSBURY, *Mayor.*

A true copy.
(Signed) THOS. G. RAPIER, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be true copies of ordinances Nos. 4276 and 4300, administration series.
(Signed) ALF. H. ISAACSON,
Mayor ad interim.
(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked J, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Novem. 14th, 1878.

196 No. 4750, administration series. An ordinance to adjust certain items of appropriation in the budget of 1878.

Be it ordained by the council of the city of New Orleans, That the following sums be, and are hereby, transferred from the unexpended balances of appropriation in the budget of 1878, to such items in said budget as are deficient:

INCREASE.

Department of water works, and public buildings:			
Home aged and infirm		950 00	
City Hall building, repairs		2,100 00	
Insane asylum		2,500 00	
Repairs of public buildings		6,150 00	
			11,700 00

Department of police:		
Boys' house of refuge	1,300 00	
Cost of removal sick and dead	3,500 00	
Public squares	6,000 00	
		10,800 00
Department of improvements:		
Drainage, materials, &c	2,300 00	
New work	4,500 00	
Streets, repairs	6,300 00	
		13,100 00
Department of commerce		100 00
Law charges		10,000 00
Lighting, gas		16,500 00
Lighting, oil		2,500 00
Printing		1,500 00
Recorders' courts		9,300 00
Supèrior criminal court		400 00
Total		$75,900 00

197 DECREASE.

Department of water works and public building:		
Salaries and wages	24,620 00	
Pipes, machinery, &c	21,625 00	
Court-houses, repairs	900 00	
Administrator's office, salaries, &c	400 00	
Small-pox hospital	700 00	
		48,245 00
Department of police:		
Black-maria	810 00	
Cemeteries, repairs	540 00	
Administrator's office, salaries, &c	110 00	
Public pounds	375 00	
Workhouse	2,250 00	
		4,065 00
Department of improvements:		
Canals, bridges, &c	1,650 00	
Salaries and wages	4,100 00	
		5,750 00
Department of commerce:		
Canals and bridges	300 00	300 00
City council		200 00
Coroners		500 00
Parish prison		8,000 00
Department of assessments		3,000 00
Department of finance		1,900 00
Department of public accounts		1,000 00

First district court	100 00
Mayor's office	1,300 00
Surveyor's office	1,000 00
City attorney	540 00
Total	75,900 00

198 Adopted by the council of the city of New Orleans November 12th, 1878.

Yeas: Brown, Cavanac, Diamond, Edwards, McCaffrey, Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*

A true copy.

(Signed) THOS. G. RAPIER,
Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 4750, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked I, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City-Hall, Decem. 26th, 1878.

No. 4824, administration series. An ordinance adopting an estimate of the receipts or revenues of the city of New Orleans for the year 1879.

Be it ordained by the council of the city of New Orleans, That the following estimate of the receipts or revenues of the city of New Orleans for the year 1879 be, and the same is hereby, adopted:

199 Tax one and one-half per cent. on the valuation of real estate and personal property, as per assessment rolls, total, $111,226,433.07		$1,668,396 00
Licenses		275,000 00
Markets	$200,000	
Less amount due Louisiana National Bank	83,000	
		117,000 00
Wharves and landings		35,000 00
Bills receivable		11,470 00
Interest, printing, and law charges		20,000 00
Fines and fees		15,000 00
Ground rents		2,500 00
Cemeteries		2,000 00
Sugar sheds		5,000 00
Pound fees		1,000 00
Miscellaneous		25,000 00
Total		$2,177,366 00

Less ten per cent., in conformity with act No. 68, of 1877..		$217, 736 00
Total.....		$1, 959, 630 00

Adopted by the council of the city of New Orleans December 24th, 1878.

Yeas: Dehan, Chevallez, Glynn, Houston, Marks, Meally.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

A true copy.

(Signed) R. C. WOOD, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance
200 No. 4824, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked H, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 15th, 1879.

No. 4857, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans for the year 1879.

Be it ordained by the council of the city of New Orleans, That the following estimate of expenditures (including police and schools) for the year 1879 be, and is hereby, adopted:

Department of improvements:			
Administrators' office, salaries and expenses.....		4, 500 00	
Streets, wages, &c.....		175, 000 00	
Streets, repairs, &c.....		45, 000 00	
Streets, bridges, crossings, and wings.....		40, 000 00	
Drainage machines.....		25, 000 00	
Drainage, canals and levees.....		5, 000 00	
Canal bridges, repairs, &c.....		5, 000 00	
			300, 000 00
Department of commerce:			
Administrator's office, salaries and expenses.....		3, 300 00	
201 Wharves and landings.....		12, 000 00	
Markets		9, 400 00	
Draw-bridges.....		7, 300 00	
			32, 000 00

Department of water-works and public buildings:		
Administrator's office, salaries and expenses	3,500 00	
Court-houses, salaries and repairs	5,100 00	
Aged, infirm, and indigent	5,000 00	
Repairs public buildings	19,000 00	
City Hall building, repairs, &c	2,500 00	
Public sinks, "contract"	3,000 00	
Insane asylum, salaries & expenses	19,500 00	
Small-pox hospital, salary of visiting physician	5,000 00	
		62,000 00
Department of police:		
Administrator's office, salaries and expenses	4,300 00	
Public squares, salaries and expenses	6,000 00	
Public pounds, salaries and rents	4,200 00	
Work-house, salaries	1,640 00	
Boys' house of refuge, salaries & expenses, &c	15,660 00	
Cost removal sick and dead, salaries, &c	5,000 00	
Cemeteries, repairs, &c	1,000 00	
Conveying prisoners, forage, &c	700 00	
		38,500 00
Department of assessments:		
Administrator's office, salaries & expenses	4,000 00	
Board of assessors, salaries & expenses	11,000 00	
		15,000 00
202 Department of finance:		
Salaries and expenses		22,000 00
Department of public accounts:		
Salaries and expenses		14,000 00
Surveyor's office:		
Salaries and expenses	19,000 00	
Dredge boats	5,000 00	
		24,000 00
Tax-mortgage registers:		
Salaries and expenses		4,500 00
Mayor's office:		
Salaries and expenses		5,000 00
City Hall building:		
Salaries of city librarian, keeper of archives, janitor and porters, and classification of the records of the district courts		7,500 00
City council:		
Salaries and expenses		3,500 00

Less ten per cent., in conformity with act No. 68, of 1877..		$217,736 00
Total.....		$1,959,630 00

Adopted by the council of the city of New Orleans December 24th, 1878.

Yeas: Dehan, Chevallez, Glynn, Houston, Marks, Meally.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

A true copy.

(Signed) R. C. WOOD, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

We hereby certify the foregoing to be a true copy of ordinance
200 No. 4824, administration series.

(Signed) ALF. H. ISAACSON,
Mayor ad interim.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked H, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 15th, 1879.

No. 4857, administration series. An ordinance adopting an estimate of expenditures of the city of New Orleans for the year 1879.

Be it ordained by the council of the city of New Orleans, That the following estimate of expenditures (including police and schools) for the year 1879 be, and is hereby, adopted:

Department of improvements:		
Administrators' office, salaries and expenses.....	4,500 00	
Streets, wages, &c.....	175,000 00	
Streets, repairs, &c.....	45,000 00	
Streets, bridges, crossings, and wings.....	40,000 00	
Drainage machines.....	25,000 00	
Drainage, canals and levees.....	5,000 00	
Canal bridges, repairs, &c.....	5,000 00	
		300,000 00
Department of commerce:		
Administrator's office, salaries and expenses.....	3,300 00	
201 Wharves and landings.....	12,000 00	
Markets	9,400 00	
Draw-bridges.....	7,300 00	
		32,000 00

Department of water-works and public buildings:		
Administrator's office, salaries and expenses	3,500 00	
Court-houses, salaries and repairs	5,100 00	
Aged, infirm, and indigent	5,000 00	
Repairs public buildings	19,000 00	
City Hall building, repairs, &c.	2,500 00	
Public sinks, "contract"	3,000 00	
Insane asylum, salaries & expenses	19,500 00	
Small-pox hospital, salary of visiting physician	5,000 00	
		62,000 00
Department of police:		
Administrator's office, salaries and expenses	4,300 00	
Public squares, salaries and expenses	6,000 00	
Public pounds, salaries and rents	4,200 00	
Work-house, salaries	1,640 00	
Boys' house of refuge, salaries & expenses, &c.	15,660 00	
Cost removal sick and dead, salaries, &c.	5,000 00	
Cemeteries, repairs, &c	1,000 00	
Conveying prisoners, forage, &c.	700 00	
		38,500 00
Department of assessments:		
Administrator's office, salaries & expenses	4,000 00	
Board of assessors, salaries & expenses	11,000 00	
		15,000 00
202 Department of finance:		
Salaries and expenses		22,000 00
Department of public accounts:		
Salaries and expenses		14,000 00
Surveyor's office:		
Salaries and expenses	19,000 00	
Dredge boats	5,000 00	
		24,000 00
Tax-mortgage registers:		
Salaries and expenses		4,500 00
Mayor's office:		
Salaries and expenses		5,000 00
City Hall building:		
Salaries of city librarian, keeper of archives, janitor and porters, and classification of the records of the district courts		7,500 00
City council:		
Salaries and expenses		3,500 00

City attorney's department:		
Salaries and expenses		10,800 00
Public printing:		
Proceedings of council, promulgation of ordinances, reports, advertisements, and tax-lists		4,500 00
203 Tax bills, &c.:		
Printing tax ledgers, bills, &c., and making tax bills		7,000 00
Mayor and administrators:		
Salaries		49,500 00
Board of health:		
Salaries sanitary inspectors and police officers		10,000 00
Lighting city:		
Contracts with New Orleans and Jefferson Gas-Light Companies	113,000 00	
Contracts for lighting with oil	21,000 00	
		134,000 00
Fire departments:		
Firemen's charitable association for city	120,000 00	
Firemen's charitable association, fifth district	9,600 00	
Firemen's charitable association, sixth district	14,400 00	
Firemen's charitable association, seventh district	6,400 00	
		150,400 00
Criminal justice:		
Superior criminal court	9,500 00	
First district court	6,500 00	
Criminal sheriff, parish prison and court fees	50,000 00	
District attorney, salary	5,000 00	
Jury commissioners' salaries	1,800 00	
204 Recorders' courts, justices of the peace, and constables	30,000 00	
Rents of courts and police stations	7,800 00	
		110,600 00
Miscellaneous:		
Support of orphans	42,000 00	
Law charges	20,000 00	
Coroners' salaries	12,000 00	
Recording deaths	1,000 00	
Improvements to fire alarm teleg'h	8,000 00	
Judgments	10,000 00	
Interest and redemption $598,750 00		
Less cash balance to credit of		

fund and amount estimated as collectible on unpaid taxes of 1876, 1877, and 1878	273, 750 00		
		325, 000 00	
City park		84, 040 00	
Police department		250, 000 00	
Public schools		200, 000 00	
			$952, 040 00
Contingent			2, 190 00
Total			$1, 959, 630 00

Adopted by the council of the city of New Orleans January 13th, 1879.

Yeas: Behan, Chevally, Glynn, Houston, Isaacson, Marks, Meallie.

(Signed) I. W. PATTON, *Mayor.*

A true copy.

(Signed) ROBERT C. WOOD, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 17th, 1879.

205 We hereby certify the foregoing to be a true copy of ordinance No. 4857, administration series.

(Signed) ALF. H. ISAACSON, *Mayor.*

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked G, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

[Office of commissioners of the consolidated debt, city of New Orleans.—No. 5, city hall.]

NEW ORLEANS, *Oct. 23d,* 1879.

STATEMENT OF PREMIUM-BOND DEBT.

Total amount issued.....	$12, 942, 940
" " retired by payment & otherwise.....	3, 583, 220
	$9, 359, 720
Amount subject to demands of outstanding bonds.....	6, 358, 000
Total premium-bond debt	$15, 717, 720
Amount of premium bonds held by city.....	2, 960, 760
" " " unfunded and represents in the drawing.....	6, 358, 000
Total amount held & represented by city.....	$9, 318, 760

Correct, E. O. E.

(Signed) JNO. GLYNN, JR.,
Adm'r Public Accounts.

206 *Ordinance No.* 6148, *marked H, offered in evidence by defendant.—Filed Oct.* 23*d*, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 2*d*, 1879.

Be it ordained, That in consideration of the bid of the New Orleans City Railroad Company of $630,000 for the franchises and right of way of the following city railroad, to wit: Camp and Prytania, Camp and Magazine, Rampart and Dauphin, Canal Street and Metairie Road and Bayou St. John, Esplanade and Bayou Bridge, was the highest, and in further consideration that the said company agree to pay the amount of their bid in cash, that the said franchises and rights of way , and they are hereby, now adjudicated to said company, and that the mayor be authorized and instructed, on payment of said amount, to sign a contract with the said New Orleans City Railroad Company, by notarial act before the city notary, for the sale and delivery of said franchises according to specifications on file in the office of the administrator of commerce, as herein modified and amended.

Adopted by the council of the city of New Orleans October 2d, 1879, the veto of the mayor to the contrary notwithstanding.

Yeas: Behan, Chevally, Isaacson, Marks, Meallie.

Nay: Glynn.

A true copy.

(Signed) R. C. MORGAN,
Ass't Secretary.

207 MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22*d*, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 6148, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Ordinance No. 6112, *marked E, offered in evidence by defendant.—Filed October* 23*d*, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Aug. 27*th*, 1879.

An ordinance appropriating the funds to be derived from the sale of the franchises and right of reversion of the New Orleans City Railroad Company.

Be it ordained by the council of the city of New Orleans, That the funds which will accrue to the city from the sale of the franchises and rights of reversion of the New Orleans City Railroad Company be, and the same are hereby, inviolably appropriated, in accordance with the provisions of section 10 of act No. 31 of the acts of 1876, to the retirement of the bonded or floating debt of the city of New Orleans.

Adopted by the council of the city of New Orleans August 26th, 1879.
Yeas: Behan, Chevalley, Glynn, Houston, Marks, Meallie.
208 (Signed) I. W. PATTON, *Mayor.*

A true copy.
(Signed) ROB'T C. WOOD, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, August 27th, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 6112, administration series.
(Signed) ALF. H. ISAACSON,
Acting Mayor.
(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Ordinance No. 6160, marked D, offered in evidence by defendant.—Filed October 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 14th, 1879.

Whereas the mayor has informed the council that he has signed the contract adjudicating the right of way on Camp and Prytannia, Camp and Magazine, Rampart and Dauphin, Canal and Metairie road, Bayou St. John, and Esplanade and Bayou Bridge to the City Railroad Company, therefore:

Be it resolved, That the action of the mayor in signing said contract be, and the same is hereby, approved.

Be it further resolved, That the adjudication made to the City Railroad Company by the council, as per ordinance No. 6148, administration
209 series, and the contract signed by the city notary in compliance therewith, be, and the same is hereby, confirmed, ratified, and approved.

Adopted by the council of the city of New Orleans Oct. 14th, 1879.
Yeas: Behan, Chevalley, Glynn, Houston, Marks, Mealley.
(Signed) ALF. H. ISAACSON,
Mayor ad interim.

A true copy.
(Signed) R. C. MORGAN,
Assistant Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 6160, administration series.
(Signed) ALF. H. ISAACSON,
Acting Mayor.
(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Ordinance No. 6149, *marked C, offered in evidence by defendant.—Filed Oct. 23d,* 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 2d, 1879.

No. 6149, administration series. An ordinance to amend the budget of receipts and expenditures for the current year.

Be it ordained by the council of the city of New Orleans, That
210 the sum of six hundred and thirty thousand dollars ($630,000), realized from the sale of the right of way of the city railroad lines expiring in 1880, be, and the same is hereby, added to the budget of receipts of the current year.

Be it further ordained, That the sum of six hundred and thirty thousand dollars ($630,000) be, and the same is hereby, appropriated in the budget of expenditures of the current year for redemption of the bonded and floating debt, in accordance with the provisions of section 10 of act No. 31 of the acts of 1870 and ordinance No. 6112 A. S.

Adopted by the council of the city of New Orleans Oct. 2d, 1879.

Yeas: Behan, Chevalley, Glynn, Isaacson, Marks, Meally.

(Signed) I. W. PATTON, *Mayor.*

A true copy.

(Signed) R. C. MORGAN,
Asst. Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 6149, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

211 *Document marked B, offered in evidence by defendant.—Filed Oct. 23d,* 1879.

Statement showing provisions made by the city of New Orleans for judgments in the annual budgets of expenditures for the years 1871 to to 1879 inclusive.

Year 1871,	ordinance	No.	550,	A. S.	}	.....	$94,000 00
" "	"	"	1175,	"			
" 1872,	"	"	1202,	"	}	.....	$106,000 00
" "	"	"	1777,	"			
" 1873,	"	"	1870,	"	}	.....	20,000 00
" "	"	"	2434,	"			
" 1874,	"	"	2828,	"	}	.....	Nothing
" "	"	"	2931,	"			
" 1875,	"	"	3345,	"	}	.....	8,075 00
" "	"	"	3358,	"			

"	1876,	"	"	3358,	"	
"	"	"	"	3746,	"	..... 5,550 00
"	1877,	"	"	3795,	"	
"	"	"	"	3965,	"	
"	"	"	"	4277,	"	..... 166,000 00
"	1878,	"	"	4300,	"	..... 28,000 00
"	1879,	"	"	4957,	"	..... 10,000 00

E. O. E.

(Signed) JOHN GLYNN, JR.,
Adm'r Public Accounts.

212 *Ordinance No.* 2932, *marked A, offered in evidence by defendant.—Filed Oct.* 23*d*, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 13*th*, 1875.

An ordinance levying city taxes for the year 1875.

Be it ordained, That in conformity with the several acts of the legislature relative thereto, and with ordinance No. 2898, administration series, adopted December 29th, 1874, the following taxes be, and are hereby, levied and assessed for the year 1875, on all taxable property within the city of New Orleans according to the assessment of said year, viz: city debt tax for the payment of the interest on the bonded debt, one dollar and twelve cents on each and every one hundred dollars of valuation; police tax, forty-nine and one-half cents on each and every one hundred dollars of valuation; public school tax, one-fourth of one per cent. on each and every one hundred dollars of valuation; park tax, one-eighth of one per cent. on each and every one hundred dollars of valuation.

Adopted by the council of the city of New Orleans January 12th, 1875, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Bonny, Burke, Landry, McCarthy, Pilsbury.

A true copy.

(Signed) J. H. HARDY, *Secretary.*

213 MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22*d*, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 2932, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Ordinance No. 3367, *marked A 2, offered in evidence by defendant.—Filed Oct.* 23*d*, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 26*th*, 1876.

An ordinance levying city taxes for the year 1876.

Be it ordained by the council of the city of New Orleans, That the

following taxes be, and are hereby, levied and assessed for said year, to wit: City debt tax: for redemption and payment of interest on bonded debt, twenty-six cents on every one hundred dollars of valuation. School tax: twenty-five cents on every one hundred dollars of valuation. Police tax: forty-two cents on every one hundred dollars of valuation. School tax: twenty-five cents on every one hundred dollars of valuation. Current city expenses tax: fifty-seven cents on every one hundred dollars of valuation. Total tax, one and one-half per cent. on an assessment of $119,045,515.

214 Adopted by the council of the city of New *of New* Orleans January 25th, 1876, the veto of the mayor to the contrary notwithstanding.

Yeas: Bertoli, Brown, Burke, Landry, Pilsbury—5. Nay: Bonny—1.

(Signed) J. H. HARDY, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We certify the foregoing to be a true copy of ordinance No. 3367, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked A 3, offered in evidence by defendant.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, March 18th, 1877.

No. 3868, administration series.

Resolved, That a tax of one and one-half per cent. on all taxable property within the limits of the city of New Orleans be, and is hereby, levied for the year 1877, according to the assessment rolls of said year.

Adopted by the council of the city of New Orleans March 13th, 1877.

Yeas: Brown, Cavanac, Diamond, Edwards, McCaffrey, and Rengstorff.

(Signed) ED. PILSBURY, *Mayor.*

A true copy.

(Signed) THOS. G. RAPIER, *Secretary.*

215 MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We hereby certify the foregoing to be a true copy of ordinance No. 3868, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

Document marked A 4, offered in evidence by plaintiff.—Filed Oct. 23d, 1879.

MAYORALTY OF NEW ORLEANS,
City Hall, January 2d, 1879.

No. 4829, administration series.

Resolved, That a tax of one and one-half per cent. on all taxable property within the limits of the city of New Orleans be, and the same is hereby, levied for the year 1879, according to the assessment rolls of said year.

Adopted by the council of the city of New Orleans Decem. 31st, 1878.

Yeas: Behan, Glynn, Isaacson, Marks, Meally.

(Signed) I. W. PATTON, *Mayor.*

A true copy.

(Signed) R. O. WOOD, *Secretary.*

MAYORALTY OF NEW ORLEANS,
City Hall, Oct. 22d, 1879.

We certify the foregoing to be a true copy of ordinance No. 4829, administration series.

(Signed) ALF. H. ISAACSON,
Acting Mayor.

(Signed) E. L. BOWER,
Chief Clerk Mayor's Office.

216 *Reasons for judgment.*

Fourth district court for the parish of Orleans.

STATE, EX REL. THE NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 45644.

The relator is a judgment creditor of the city of New Orleans in the sum of one hundred and thirteen thousand three hundred and sixty-eight and $\frac{85}{100}$ dollars ($113,368.85) for balance due to relator for gas furnished to the city in the years 1875, 1876, 1877, and 1878. The judgment was rendered 13th of June, 1878, and was registered in the office of the administrator of public accounts on the 23d of October, 1878, under the provisions of act No. 5 of the extra session of the year 1870. Though demanded, payment has not been made of that judgment or any part thereof, and the budget of the succeeding year, that of 1879, contained no provision in favor of that judgment or anterior judgments. There is
217 an appropriation of $10,000 in the budget of 1879, to pay judgments generally, though none are specified. Act No. 5 of the extra session of 1870, prohibited the issuance of any writ of fieri facias, or execution against the city of New Orleans, and provides for the registry of all judgments rendered against that corporation and their payment in

order of date of registry by appropriation for that purpose to be made in the annual budget of the city.

That budget is an estimate of receipts and expenditures for the ensuing year, and is required to be made within the months of November or December of each year (see section 14 of act No. 73 of 1872). Relator recites the advertisement of the sale of the franchises of the New Orleans City Railroad Company on the 1st of September, 1879, the bids of the sum of $630,000 cash, and alleges that as the present franchises of the company do not expire until the months of February and July, 1880, the sum of six hundred and thirty thousand dollars (630,000) to be received should be included in the budget of receipts and revenues for the year 1880, and form a fund to be appropriated to the payment of the expenses and liabilities of the city, including registered judgments.

Relator alleges that, in violation of the provisions of law and of the rights of relator as the owner of a registered judgment, the council
218 of the city have resolved to collect before the budget of 1880 is made up the price of these franchises and use it in the retirement of the bonded and floating debt of the city, whether due or not; that by act No. 31 of the acts of 1876 provision was made for the payment of premium bonds by the levy of a special tax of one-half of one per centum annually on all the assessed property within the corporate limits of the city, and that no other provision for the payment of said bonds has been made or is contemplated than appears in said act.

Relator alleges that the current expenses and judgments, in the order of their registration, are entitled to be paid by preference over all other liabilities of the city out of any annual revenues not specially destined and appropriated by law to other purposes, and that it is the duty of the council to exhaust the power of taxation to provide for the payment of registered judgments. The prayer is, that a writ of mandamus issue to the council of the city of New Orleans, and to the said mayor and administrators separately, commanding them to include in the next budget or estimate of receipts the price or proceeds of the aforesaid railroad franchises, and in the next budget or estimate of expenses and liabilities the judgment aforesaid in favor of relator's and all previously registered judgments,
219 and in order to insure a sufficient fund to provide for the payment of said judgments that they and their successors in office shall, if necessary, exhaust their powers of taxation, and continue to do so until relator's judgment is paid and satisfied. By a supplemental petition it is alleged that since the filing of the original petition herein the sum of $630,000 has been received in cash as a consideration of the grant of railroad franchises and right of way conferred on the City Railroad Company. It is also alleged that at the date of the contract with the city of New Orleans under which the gas was furnished, for which their judgment was rendered, that the rate of municipal taxation was one and three-quarters per centum on assessed values, and that the limitation of the taxing power of the corporation to one and one-half per centum by act No. 31 of the session of 1876 is inoperative and void, so far as it affects the rights of relators and impairs the obligations of the contracts aforesaid between the city and relators, and violates the 10th section of article 1 of the Constitution of the United States. The prayer is the same as in the original petition.

The defendants answer, substantially, first, that the taxes which were levied to pay for the gas furnished in 1875, 1876, 1877, and 1878 are now in process of collection, and are ample to pay the judgment
220 for balances due obtained by relator, who, by this proceeding, is attempting to have a double provision made for the payment of its debt; second, that the proceeds of the sale of the franchises, $630,000 cash, have been applied to the reduction of the bonded debt of the city of New Orleans, as required by section 10 of act No. 30, approved March 26th, 1876, and ordinance adopted August 26th, 1879, passed to carry out the provisions of said act, which ordinance was passed long prior to the institution of this suit.

The first question to be considered is whether the holder of a registered judgment against the city of New Orleans can by mandamus compel the common council to place his judgment after all other previously registered judgments on the budget for the year or years succeeding that in which the judgment was registered. This question has been considered by the Supreme Court and answered in the affirmative, in the case of the Carondelet Canal and Navigation Company vs. The Mayor and Administrators of New Orleans, 30th Annual, 129 and 707.

The fact that the items which constitute the basis of the judgment were covered by appropriations made in past years will not change the rule. Unpaid appropriations on some budget of expenditures form the
221 basis of all judgments rendered against the city, except those for damages. The probability that back taxes will be collected in sufficient amount to pay the past appropriations made in his favor must be determined by the city creditor for himself before bringing suit and placing himself in the category of judgment creditors. There is no prohibition of law against such a creditor's bringing suit.

If the council were justified in placing the $630,000 to the credit of the premium bond fund and in purchasing premium bonds with that amount and retiring them, then no mandamus could lie to compel them to place the said amount of $630,000 on the budget of receipts for the year 1880. Section 10 of act No. 54 of 1876, commonly known as the premium bond act, provides that no city property of any kind "shall hereafter be sold or conveyed in any manner except the proceeds be applied to the reduction of the bonded or floating debt." The term property in our law is one of great comprehensiveness. It has been held to include the franchise of a corporation (New Orleans Gas-Light Company vs. The Board of Assessors), 31st annual.

It includes all incorporeal rights. The statute says "city prop-
222 erty of any kind," indicating that it was the intention of the lawmaker to use the term property in its largest sense. The right of reversion which the city had to purchase all the property of each line at an appraised value was sold at the same time with the rights of way, and its price is included in the $630,000 received from the City Railroad Company. There can be no doubt that that right of reversion was property, and it seems sufficiently clear that the right of way must be considered as property within the meaning of the act when we consider the forcible terms in which the section is couched, and the desire of the legislator, as apparent by the context of the whole act, to guarantee the redemption of these bonds and the payment of the floating indebtedness. It was dis-

cretionary with the council to reduce the bonded debt or the floating debt.

The low price at which the bonded indebtedness was purchased indicates that discretion was exercised toward the reduction of the volume of the debt of the city. The record shows that the city council exhausted its power of taxation under the statutes during each year that elapsed from the date of the contract with relator. The rate of taxation that existed at the date of the contract, one and ¾ per centum, does not form part of the contract, and it was competent for the legislature to re-
223 duce the rate of taxation.

The contract was an ordinary one, and was made with no special reference to the rate of taxation then existing.

The courts have held that where a special tax was provided for the redemption of certain municipal obligations that that special tax became part of the contract between the municipal corporation and the holder of those particular obligations, who is entitled to a writ of mandamus to compel the levy of the special tax.

In such a case the court can grant a substantial relief. The proceeds of the special tax constitute a separate fund, which cannot be diverted for the general purpose of the corporation. No case has been cited in which it has been held that the ordinary current expenses of the municipal corporation are contracted with reference to the particular rate of taxation then imposed for general purposes.

In the case at bar an order to levy a tax of one and ¾ per centum might afford no relief to the relator. The council, in the exercise of the discretion vested in it by law, might see fit to expend the entire proceeds of the increase of the tax in the sanitation of the city. The necessary expenses of the city government must be first paid. The relator would get
224 nothing, and the rate of taxation would be increased beyond the limit imposed by the statutes now in force. When this judgment was recovered the rate of taxation was what it now is, one and one-half per centum, and that rate of taxation has been levied since the judgment was rendered.

For the reason herein given, and considering the law and the evidence to warrant the relief—

It is ordered, adjudged, and decreed that the writ of mandamus herein issued be made peremptory, so far as to compel the council of the city of New Orleans, composed of I. W. Patton, mayor, Alfred H. Isaacson, John Glynn, jr., E. R. Chevally, P. Meallie, J. Henry Behan, Washington Marks, and J. D. Houston, administrators; and the said mayor and administrators, separately, to place the judgment rendered in favor of the relator on the 13th of June, 1878, and described in the petition herein, and all judgments registered previous to its registry, on the next annual budget, and to provide for the payment of all said judgments, in the order in which they are registered, through and by means of all taxes imposed, collected, or held for city current expenses, not levied or collected in pursuance of law for some other specific purpose, and in order to insure a sufficient fund to provide for the payment of said judgments to exhaust their power
225 of taxation, and continue to do so, if necessary, until the judgment of relator is paid and satisfied; and it is further ordered that all other relief herein prayed for be denied.

Judgment.

Fourth district court for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company.
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 45644.

For reasons assigned in the written opinion of the court, this day delivered and on file, it is ordered, adjudged, and decreed that the writ of mandamus herein issued be made peremptory so far as to compel the council of the city of New Orleans, composed of I. W. Patton, mayor, Alfred H. Isaacson, John Glynn, jr., E. R. Chevalley, P. Meallie, J. Henry Behan, Washington Marks, and J. D. Houston, administrators, and the said mayor and administrators separately, to place the judgment rendered in favor of the relator on the 13th of June, 1878, and described in the petition herein, and all judgments registered previous to its registry, in the next annual budget, and to provide for the payment
226 of all said judgments in the order in which they are registered, through and by means of all taxes imposed, collected, or held for city current expenses, not levied or collected in pursuance of law for some other specific purpose, and in order to insure a sufficient fund to provide for the payment of said judgments, to exhaust their powers of taxation, and continue to do so, if necessary, until the judgment of relator is paid and satisfied; and it is further ordered that all other relief herein prayed for be denied.

Judgment rendered Nov. 11th, 1879.
Judgment signed Nov. 15th, 1879.

(Signed) W. T. HOUSTON,
Judge Fourth District Court.

Motion for appeal.—Filed Novem. 18th, 1879.

Fourth district court for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 45644.

On motion of Jno. & W. S. Finney, attorneys for the petitioner and relator, and on suggesting to the court that said petitioner and relator desire to take a suspensive appeal from the judgment herein rendered
227 against them on the 11th day of November, 1879, and signed on the 15th day of November, 1879:

It is ordered that said petitioner and relator have and be allowed a suspensive appeal from said judgment, returnable to the supreme court of this State on the first Monday of December, 1879, on giving bond in favor of the clerk of this court in the sum of five hundred dollars, with good and solvent security, conditioned according to law.

Bond of appeal.—Filed Novem. 18th, 1879.

Know all men by these presents that we, The New Orleans Gas-Light Company, as principal, and James Jackson, as security, are held and firmly bound unto John Curry, clerk of the fourth district court for the parish of Orleans, his executors, administrators, and assigns, in the sum of five hundred dollars, for the payment whereof we bind ourselves, our heirs, administrators, and executors, firmly by these presents. Sealed with our seals, and dated in the city of New Orleans on this eighteenth day of November, in the year of our Lord one thousand eight hundred and seventy-nine.

Whereas the above-bound New Orleans Gas-Light Company has this day filed a motion of appeal from a final judgment rendered against
228 the said New Orleans Gas-Light Company in the suit of State, ex rel. New Orleans Gas-Light Company, vs. The Council of the City of New Orleans et als., No. 45644, in the fourth district court for the parish of Orleans, on the 11th day of November, 1879, and signed on the 15th day of November, 1879:

Now the condition of the above obligation is such that the above-bound New Orleans Gas-Light Company shall prosecute its said appeal, and shall satisfy whatever judgment may be rendered against it, or that the same shall be satisfied by the proceeds of the sale of its estate, real or personal, if it be cast in the appeal; otherwise that the said James Jackson shall be liable in its place.

(Signed) JAMES JACKSON, [L. S.]
President New Orleans Gas-Light Co.

(Signed) JAMES JACKSON. [L. S.]

Signed, sealed, and delivered in the presence of—
W. S. FINNEY.

Agreement.

Fourth dist. court for the parish of Orleans.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
COUNCIL OF THE CITY OF NEW ORLEANS ET AL. } No. 45644.

229 It is agreed, in order to save expense, that in making up the transcript of appeal in this cause, the budgets of the receipts and revenues, and the budgets of expenditures and liabilities, and the ordinances of the council levying taxes, need not be copied into the transcript, but the originals shall be included & thus carried up.

Nov. 25th, 1879.

(Signed) JOHN & W. S. FINNEY,
Att'ys for Petitioners & Relators.

(Signed) E. HOWARD McCALEB,
City Attorney.

Certificate.

I, John Curry, clerk of the fourth district court for the parish of Orleans, State of Louisiana, do hereby certify that the above and foregoing two hundred and fifty pages, together with the agreement hereto annexed, do contain a correct and complete transcript of all the proceedings had, of all the documents filed, and of all the evidence adduced on the trial of the cause wherein The New Orleans Gas-Light Company, on the relation of the State, is the relator and plaintiff, and The City Council of the City of New Orleans & others are respondents and defendants, instituted in said court, and No. 45644 of the docket thereof. In testimony whereof I hereunto set my hand and affix the seal of said court on this 28th
230 day of November, in *in* the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the 104th.

[SEAL.] (Signed) JOHN CURRY,
Clerk Fourth District Court for the Parish of Orleans.

UNITED STATES OF AMERICA,
State of Louisiana:

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT CO.,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

Appealed from the fourth district court for the parish of Orleans, No. 45644. Filed Novem. 29th, 1879.

(Signed) FRANK WALL,
D'y Clerk.

Order summary docket.

Supreme court of Louisiana.

NEW ORLEANS GAS-LIGHT COMPANY
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

231 Filed Novem. 29th, 1879.

(Signed) T. McC. HYMAN,
D'y Clerk.

The clerk of the supreme court will please put this case on the summary docket. It is an application for a writ of mandamus.

(Signed) JNO. & W. S. FINNEY,
Att'ys for Plaintiffs and Appellant.

Continued with preference.—Extract of the minutes Decem. 16th, 1879.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT CO.,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

The court was duly opened. Present, their honors Thos. C. Manning, chief justice; Robert H. Marr, Alcibiade Deblanc, William B. Spencer, Edward D. White, associate justices.

This case was ordered by the court to be continued with preference.

Continued with preference.—Extract from the minutes January 20th, 1880.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

232 The court was duly opened. Present, their honors Thos. C. Manning, chief justice; Robert H. Marr, Alcibiade De Blanc, William B. Spencer, Edward D. White, associate justices.

This cause was ordered by the court to be continued with preference.

Called and continued.—Extract from the minutes March 2d, 1880.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

The court was duly opened. Present, their honors Thos. C. Manning, chief justice; Robert H. Marr, William B. Spencer, Edward D. White, associate justices.

This case was called for trial, and having heard argument from John Finney, esq'r, of counsel for plaintiff and appellant, and from E. Howard McCaleb, esq'r, of counsel for the defendants, appellees herein, the court ordered said case to be continued for further argument until to-morrow, Wednesday, the 3d instant.

Called and submitted.—Extract from the minutes March 3d, 1880.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

233 The court was duly opened. Present, their honors Thos. C. Manning, chief justice; Rob't H. Marr, Edward D. White, associate justices.

This case was called for resumption of trial, and having heard argument from John Finney, esq'r, of counsel for plaintiff and appellant, and from E. Howard McCaleb, esq'r, city attorney, on behalf of defendant, appellees herein, the court took said case under advisement upon briefs for parties in interest and the papers now on file.

Opinion of the court.

Filed March 15th, 1880.
(Signed) FRANK WALL, *D'y C'k.*

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

Mr. Justice SPENCER.

Relator is a judgment creditor of the city for $113,368.85 for balances due for gas furnished the city in the years 1875, 1876, 1877, and 1878. This judgment was rendered 13th June, and duly registered according to provisions of act 5 of the extra session of 1870, on 23d October, 1878.

234 Act 5 aforesaid prohibits execution against the city, provides for registering judgments against it, and directs them to be included in the next annual budget, and paid in the order of their registry out of any moneys in the treasury appropriated for that purpose.

The right of way and franchises of the City Railroad Company being about to expire (in January and July, 1880), the city council advertised the same for sale, including the right of reversion of the equipments of said road, which belonged to the city, upon paying their estimated value. The various rights, privileges, and franchises were adjudicated to the City Railroad Company itself, as the highest bidder, for the sum of ($630,000) six hundred and thirty thousand dollars cash, which sum was paid into the city treasury in October, 1879.

Relator institutes this proceeding to compel the city council to include that sum in the budget for 1880, and apply it to the payment of registered judgments, including the one held by relator.

The city council resist this demand on various grounds, one of which is, we think, good. The 10th section of act No. 30 of the general assembly, approved March 26th, 1876 (commonly known as the premium-bond act), provides "that no city property of any kind shall hereafter be sold or conveyed in any manner, except the proceeds be applied to the reduction of the bonded or floating debt."

235 It is manifest that it is discretionary with the council to apply the proceeds of the sale, or conveyance of such property either to the bonded or floating debt, and therefore a mandamus will not lie to compel the application of the funds to one rather than to the other. When the law vests a discretion in the officer to do or not to do a thing, the writ will not lie.

If, therefore, the $630,000 received from the City Railroad Company be the proceeds of the sale, or conveyance of property of any kind, its application to the redemption or reduction of the bonded debt by the council was legal and proper, as the act leaves it discretionary to which class of debts it shall be applied.

The language used by the 10th section, "no city property of any kind shall be sold or conveyed in any manner except the proceeds be applied," &c., gives to the word property its broadest and most generic signification. It cannot be denied that the city has the right of selling or otherwise conveying the privilege or franchise of running cars through the streets of New Orleans. (14 A, 842). That privilege or franchise is a thing of value,

236 and we have held that it is a proper subject of taxation. (N. O. & Carrollton R. R. Co. vs. Board of Assessors, not yet reported; see, also, N. O. Gas-Light Co. vs. Board of Assessors, 31 Annual, 475, where the authorities are referred to at length.) It is equally certain that this right of running cars through the streets is vested in the city, otherwise it could not cede or sell it to another. It is, therefore, we think, a right which possesses value, and in this sense would fall within the meaning intended by the words "any property." By the sale or conveyance in question the city divested itself of this right and vested it in the City Railroad Company, quoad certain streets.

Moreover, the city possessed the right of reversion, i. e., the right of taking at an estimation all the property and equipments of the City Railroad Company, on expiration of its original contract. This right, which was evidently one of value, was also surrendered and conveyed with the franchise and right of way, and entered into and made part of the thing sold.

The manifest purpose of the 10th section of the premium-bond act was (in order to make it acceptable to the creditors) to make available for their redemption, in addition to the five-mill tax, all the means of income possessed by the city outside of those usual and customary annual

237 revenues immemorially applied to its current expenses. We think, therefore, that the city council are not obliged to carry said sum of $630,000 into the budget of 1880, or apply it to the judgment or floating debt of the city; that in using it for reduction of the bonded debt the council exercised a discretion vested in it by law and not subject to control by the writ of mandamus.

The judge a quo made the mandamus peremptory, to the extent of ordering relator's judgment and all judgments registered prior thereto, to be

placed on the next annual budget, and to provide for their payment in their order, and to exhaust the power of taxation vested in the city to accomplish that end. In other respects the mandamus was refused.

The judgment appealed from is correct, & it is affirmed with costs.

Judgment and decree.—Extract from the minutes, March 15th, 1880.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

The court was duly opened. Present, their honors Thos. C. Manning, chief justice; Robert H. Marr, Alcibiade DeBlanc, William
238 B. Spencer, Edward D. White, associate justices.

The judgment appealed from is correct, and it is affirmed with costs.

Application for a rehearing.—Filed March 22d, 1880.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

Application for a rehearing by the petitioner and relator.

1. We regret that we find ourselves under the necessity of troubling the court again in this case.

In your honor's opinion there is no allusion to the rate of taxation. The question is presented and the authorities cited in our first brief at page 12. We did not argue the point at length, because the subject has been much discussed recently at your bar, and we believed further discussion unnecessary.

The second supplemental brief, being the third one in the case on our side, was filed for the purpose of calling your honors' attention to this question, and of asking you to rule upon it, also to make the judgment of the district court more clear and specific if you should concur in it.

239 The judge of the lower court, in his opinion, said: "When the judgment was recovered, the rate of taxation was what it now is, one and a half per centum, and that rate of taxation has been levied since the judgment was rendered."

The decree of the lower court orders the defendants to exhaust their powers of taxation, but specified no rate. In that third brief we called your attention to this vagueness and asked for a specific rate to be expressed in the decree. Referring to the opinion we supposed that the

district judge meant to give us the rate which he named in his opinion, viz, one and one-half. If that is so, we ask that you so express it in your decree. We have spent a great deal of labor and incurred considerable expense in endeavoring to elicit your honors' opinion in this matter and to have your judgment. Your opinion is silent and your decree affirms that of the lower court, which is vague and possibly ambiguous. "The case of Folsom Bros. vs. The City, now under advisement in this court, involves a similar question"

II. Your honors considered the grant of the right of way by the city to the New Orleans City Railroad Company as a sale of property,
240 and, by way of argument or illustration, said that you had decided that the franchises granted to the relator by the State was property, and taxable as such. Yes; but in granting the franchises did the State sell property? Was that the nature of the transaction between the State and the relator? In order that there should be a sale there must be a thing sold, a price, and the consent. What was the thing sold? What was the price? The State did not part with property in granting the franchise. It had the faculty of granting franchises; this was not property, but a governmental power, and it never sold it or parted with it. In the exercise of that faculty it granted a franchise, but such a proceeding has never been supposed to be a sale. So the State has delegated a part of its political power to the city authorities, and they have the power to regulate the use and police of the streets, and "the proper government of carts, etc., and freight, locomotive, passenger, and street cars, and to require that the owners of said vehicles shall take a license." (Act No. 7 of extra session of 1870, p. 36, subsection 11.)

In 14 An., Brown vs. Duplessis, the faculty of the city to grant the right in question was deduced from this provision, or rather from an old law of which the above is a reprint with a slight amendment.
241 Taking the illustration suggested by the court, if the State in granting its franchises to the relator did not sell property, did the city do so in granting the right in question? It received a consideration it is true, but something else is necessary to make a sale besides a consideration (that enters into every contract); there must be a thing sold. What was that? The city had and still has the faculty of granting rights or easements of this kind, and in virtue of this faculty it leased an easement to the railroad for twenty-five years. It did not sell its faculty or any part of it, and at the end of the twenty-five years doubtless it will lease again. Whatever rights the city had it still retains subject to the lease of twenty-five years. Supposing the city in its transaction with a railroad company dealt with something of its own, which may be called property; it did not sell it, it merely leased it for twenty-five years. Whatever right the city had it was no more property than the markets which belong to it. Yet no one would say that a lease of the markets for twenty-five years was a sale. In a sale the grantor parts with the entire fee or ownership; in a lease only a term. (R. C. C., 2674, 2679.)

So with regard to what is called the city's right of reversion; the term reversion has no application to the case either in common parlance or legal phraseology. We must not be deceived by the misuse of words.
242 An estate in reversion is a vested estate to ripen into possession after the termination of a preceding particular estate. It contem-

plates no payment of a valuation. The city reserved to itself the privilege of taking the depot, yards, &c., of the company at the end of the term of the lease at a valuation. But it never desired to do so; there was no valuation, no price, and no transfer or conveyance, or pretence of any, and the property remained the property of the original owners, the railroad company. We presume the city reserved the same privilege of taking the same kind of property at a valuation at the end of a second lease, and the exercise of the privilege is thus postponed twenty-five years. The answer of the defendants and the resolution of the council, by which they accept the offer of the company, show that not a cent was paid for what is improperly termed the reversion; for the meaning look at any English dictionary or Bouvier.

III. There is no pretence that the 10th section of the premium bond act gives any preference to premium bonds over our claim or any floating debt. The section puts them on equal terms. The preference of the premium bonds consists in the fact that they had a long time to run,
243 and could be shaved at a heavy discount. Was that a legitimate cause of preference? The law denounces the anticipation of a debt not due by an insolvent debtor as a fraud upon the other creditors. (R. C. C., art. 1988; Revised Statutes, sec. 1804.)

The law merely expresses the moral sense of mankind. No private corporation, no commercial firm, no private dealer, in the condition in which the city is, could face creditors with the announcement that, with abundant means in hand, they preferred to shave their obligations due in the distant future. We do not believe that any government in christendom would avow any such practice. Repudiation is regarded as dishonor, but that generally has the excuse of the want of money. This is the first time that any government, in any of its political subdivisions, with money in hand to pay current expenses, refused to do so, and applied that money to shave its obligations due in the distant future. We submit that the practice is denounced by the law and bad in morals.

We respectfully pray for a reconsideration of this case and a rehearing.

Respectfully submitted.

(Signed) JNO. & W. S. FINNEY,
Att'ys for Petitioner & Relator.

244 *Second supplemental brief.—Filed March 6th*, 1880. *Referred to in application for rehearing.*

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et al. } No. 7661.

We have little more to say. The judge of the district court, in his opinion, considered that we were entitled to have a tax levied at the rate in force at the time our judgment was rendered. We have insisted that we were entitled to the rate in force at the time the obligations were created upon which the judgment is based.

The rate of taxation in force at the time these obligations were created is regulated by the 19th section of act No. 7 of the extra session of 1870, p. 39, as modified or amended by section 15 of act 73, p. 127, of the acts of 1872, which limits the rate of taxation to one and a quarter per centum for current city expenses, "including police, and exclusive of interest and schools." Whether this limitation includes judgments already rendered we submit to your honors without further argument. If it does, then the rate of taxation, to satisfy our judgment, could not exceed one and a
245 quarter per cent., exclusive of interest and schools. One and a quarter added to the one-half to be levied for the premium bonds would make $1.75, the rate which we claimed in our supplemental petition.

The judgment of the court is lacking in precision in this, that it specifies no rate of taxation, although in the opinion the judge considers us entitled to a levy of one and a half per cent. This, however, to be the limit for all purposes. According to the act of 1872 we are entitled to one and a quarter per cent., exclusive of the provision for the schools and interest. We pray your honors to amend the decree so as to allow us this much taxation at least, and to specify the rate.

If the court considers that we are to be put under the limitation of the act of 1872, we ask for the full benefit of it in precise terms.

There has been no appeal or joinder in appeal by the defendants, and therefore your honors will not reduce the rate of taxation allowed by the lower court. If you cannot improve our condition in this respect, please leave us as we are. As to the insufficiency of the return to the writ of mandamus, see Benton vs. Iowa City, 7 Wal., 314.

Respectfully submitted.

JOHN & W. S. FINNEY,
For Petitioners & Relators.

246 *Rehearing refused.—Extract from the minutes, March 31st, 1880.*

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT COMPANY, *vs.* THE COUNCIL OF THE CITY OF NEW ORLEANS et als.	No. 7661.

The court was duly opened. Present their honors Thos. C. Manning, chief justice; Robert H. Marr, Alictiade DeBlanc, William B. Spencer, Edward D. White, associate justices.

It is ordered that the rehearing applied for in this case is refused.

Petition for writ of error.—Filed July 12th, 1880.

Supreme court of Louisiana

STATE OF LOUISIANA, EX REL. NEW ORLEANS Gas-Light Co.,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

To the honorable the chief justice of the supreme court of Louisiana:

Your petitioner, the State of Louisiana, and the New Orleans Gas-Light Company, the relator, respectfully represents that they desire to take a writ of error to the Supreme Court of the United States from a final judgment rendered by your honorable court in the above entitled suit in favor
247 of the defendants and against your petitioner and relator on the 15th day of March, 1880; that in the petition and supplemental petition in said cause your petitioner and relator prayed, among other things, that a writ of mandamus issue to the mayor and council of the city of New Orleans, compelling them to levy annually a tax to the amount of one & $\frac{75}{100}$ per cent. on every one hundred dollars of taxable property to pay and satisfy a judgment in favor of relators and against the city of New Orleans for the sum of $113,368.85, exclusive of interest and costs, which was signed on the 19th of June, 1878.

That the said judgment was rendered for money due the said New Orleans Gas-Light Company by the city of New Orleans for gas furnished under special contracts between the said parties; that at the time said contracts were made the city authorities were fully authorized to levy a tax up to the amount of one & $\frac{75}{100}$ per cent. on every hundred dollars of taxable property; that the defendant had a legal remedy to compel the levy to that amount if necessary to provide for the satisfaction of its debts; that by act No. 31 of the acts of 1876, the legislature of the State has prohibited the collection of city taxes for all purposes beyond one and
248 a half per cent., and that the defendants pleaded that act in bar of plaintiff's demand; that in the judgment rendered by your honor's predecessors effect was given to this act, and it was held to limit the rate of taxation for all purposes to one and a half per cent., and the court refused to order the levy according to the rate in force at the time of the making of the said contracts, which said act of the legislature and the ruling judgment of the court impaired the obligations of said contracts, and violated the 10th section of the 1st article of the Constitution of the United States.

Wherefore your petitioner and relator pray that they be allowed a writ of error to the Supreme Court of the United States from said judgment, to be returnable according to law upon petitioners giving bond and complying with all legal requisites.

(Signed) JNO. & W. S. FINNEY,
Att'ys for Petitioner & Relator.

Writ allowed and bond approved. Opelousas, July 19th, 1880.
[SEAL.] (Signed) E. BERMUDY,
Chief Justice Supreme Court of Louisiana.

249 *Writ of error.—Filed July 12th, 1880.*

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

Copy of a writ of error lodged in the clerk's office of the supreme court of the State of Louisiana, in pursuance of the statute in such case made and provided, this 12th day of July, one thousand eight hundred and eighty.

JNO. & W. S. FINNEY,
Att'ys for Plaintiff in Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Louisiana, and holding sessions in New Orleans, La., greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between the State of Louisiana, on the relation of the New Orleans Gas-Light Company, plaintiff, and
250 The Council of the City of New Orleans, Isaac W. Patton, mayor; Alfred H. Isaacson, administrator of finance; John Glynn, jr., administrator of public accounts; Emile R. Chevalley, administrator of water works and public buildings; Patrick Meally, administrator of police; J. Henry Behan, administrator of commerce; Washington Marks, administrator of assessments, and James D. Houston, administrator of improvements, defendants, a manifest error hath happened, to the great damage of the said State of Louisiana and said New Orleans Gas-Light Company, as by their complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all the things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of
251 right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 2d day of July, in the year of our Lord one thousand eight hundred and eighty.

[SEAL.] (Signed) F. A. WOOLFLEY,
Clerk of the U. S. Circuit Court for the District of Louisiana.

Bond for writ of error.—Filed July 12th, 1880.

Supreme court of Louisiana.

STATE, EX REL. NEW ORLEANS GAS-LIGHT Company,
vs.
THE COUNCIL OF THE CITY OF NEW ORLEANS et als. } No. 7661.

Know all men by these presents that we, the State of Louisiana and the New Orleans Gas-Light Company, as principals, and James Jackson, as sureties, are held and firmly bound unto the Council of the City of New Orleans, Isaac W. Patton, mayor, Alfred H. Isaacson, administrator of finance, John Glynn, jr., administrator of public accounts, Emile R. Chevalley, administrator of water works and public buildings, Patrick Meallie, administrator of police, J. Henry Behan, administrator of
252 commerce, Washington Marks, administrator of assessments, and James D. Houston, administrator of improvements, in the full and just sum of five hundred dollars, to be paid to the said obligees, their certain attorney, executors, administrators, or assignees, to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents; sealed with our seals and dated this seventh day of July, in the year of our Lord one thousand eight hundred and eighty.

Whereas lately, at a supreme court of Louisiana, holding sessions in New Orleans, Louisiana, in a suit depending in said supreme court, wherein the State of Louisiana, ex rel. New Orleans Gas-Light Company, is plaintiff and the Council of the City of New Orleans and others are defendants, judgment was rendered against the said plaintiffs, and the said plaintiffs having obtained a writ of error and filed a copy thereof in the clerk's office of the said supreme court to reverse the judgment in the aforesaid suit, and a citation directed to the said defendants citing and admonishing them to be and appear at a Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such that if the
253 said State of Louisiana & New Orleans Gas-Light Company shall prosecute their writ to effect and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

For the State of Louisiana & New Orleans Gas-Light Co.:
(Signed) JAMES JACKSON, [L. S.]
President N. O. Gas-Light Co.
(Signed) JAMES JACKSON. [L. S.]

Signed, sealed, & delivered in presence of—
W. S. FINNEY.
Bond approved.
(Signed) E. BERMUDY,
Chief Justice La.

254 *Certificate of the clerk.*

UNITED STATES OF AMERICA:

Supreme court of the State of Louisiana.

I, George W. Dupré, clerk of the supreme court of the State of Louisiana, holding sessions at the city of New Orleans, do hereby certify that the foregoing two hundred and fifty-three pages contain a full, true, and complete copy of the transcript of the proceedings had in the fourth district court for the parish of Orleans, in a certain suit wherein "The State of Louisiana, ex rel. New Orleans Gas-Light Company, were plaintiffs and The Council of the City of New Orleans et als. were defendants," and also of the proceedings had in this supreme court on the appeal taken by said New Orleans Gas-Light Company, plaintiffs, which transcript of appeal is now on the files of this honorable court under No. 7661.

In testimony whereof I have hereunto set my hand and affixed the seal of this honorable court, at the city of New Orleans, this sixth day of August, A. D. 1880, and in the 105th year of the Independence of the United States.

[SEAL.] GEORGE W. DUPRÉ,
Clerk Supreme Court of Louisiana.

255 *Certificate of the judge.*

UNITED STATES OF AMERICA:

Supreme court of the State of Louisiana.

I, Felix P. Poché, senior justice and acting chief justice of the supreme court of the State of Louisiana, in the absence of Chief-Justice E. Bermudy from the State, do hereby certify that George W. Dupré, is clerk of the supreme court of the State of Louisiana, holding sessions at the city of New Orleans; that the signature of George W. Dupré to the within certificate is in the proper handwriting of him the said clerk; that said certificate is in due form of law, and that full faith and credit are due to all of his official acts as such.

In testimony whereof I have hereunto set my hand and seal at the city of New Orleans, this 9th day of August, A. D. 1880, and the 105th year of the Independence of the United States.

[SEAL.] F. P. POCHÉ,
Associate Justice, Acting Chief Justice.

256 Supreme court of Louisiana.

STATE OF LOUISIANA, EX REL. NEW ORLEANS Gas-Light Co.,
vs.
THE COUNCIL OF THE CITY NEW ORLEANS, et al.

To the honorable the chief justice of the supreme court of Louisiana:

Your petitioner, the State of Louisiana, and the New Orleans Gas-Light Company, the relator, respectfully represents that they desire to take a writ

of error to the Supreme Court of the United States from a final judgment rendered by your honorable court in the above-entitled suit in favor of the defendants and against your petitioner and relator on the 15th day of March, 1880; that in the petition and supplemental petition in said cause, your petitioner and relator prayed, among other things, that a writ of mandamus issue to the mayor and council of the city of New Orleans compelling them to levy annually a tax to the amount of one $\frac{75}{100}$ per cent. on every one hundred dollars of taxable property to pay and
257 satisfy a judgment in favor of relators and against the City of New Orleans for the sum of $113,368.85, exclusive of interest and costs, which was signed on the 19th of June, 1878.

That the said judgment was rendered for money due the said New Orleans Gas-Light Company by the City of New Orleans for gas furnished under special contracts between the said parties; that at the time said contracts were made the city authorities were fully authorized to levy a tax up to the amount of one $\frac{75}{100}$ per cent. on every hundred dollars of taxable property; that the defendant had a legal remedy to compel the levy to that amount if necessary to provide for the satisfaction of its debt; that by act No. 31 of the session acts of 1876, the legislature of the State has prohibited the collection of city taxes for all purposes beyond one and a half per cent., and that the defendants pleaded that act in bar of plaintiff's demand; that in the judgment rendered by your honors' predecessors, effect was given to this act, and it was held to limit
258 the rate of taxation for all purposes to one and a half per cent., and the court refused to order the levy according to the rate in force at the time of the making of the said contracts; which said act of the legislature and the ruling judgment of the court impaired the obligation of said contracts and violated the 10th section of the 1st article of the Constitution of the United States.

Wherefore petitioner and relator pray that they be allowed a writ of error to the Supreme Court of the United States from said judgment, to be returnable according to law, upon petitioners giving bond and complying with all legal requisites.

JNO. & W. S. FINNEY,
Att'ys of Petitioner & Relator.

Writ allowed & bond approved.
Opelousas, July 9, 1880.
[SEAL.]
E. BERMUDY,
Chief Justice Supreme Court of Louisiana.

(Indorsed:) No. 7661. Supreme court. State, ex rel. N. O. Gas-Light Company, vs. The Council of the City of New Orleans et al. Petition for writ of error. Jno. & W. S. Finney, att'ys. Filed 12 July, 1880. T. McC. Hyman, d'y clerk.

259 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Louisiana, and holding sessions in New Orleans, Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the

judgment of a plea which is in the said supreme court before you or one of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between The State of Louisiana, on the relation of the New Orleans Gas-Light Company, plaintiffs, and The Council of the City of New Orleans, Isaac W. Patton, mayor, Alfred H. Isaacson, administrator of finance, John Glynn, jr., administrator of public accounts, Emile R. Chevalley, administrator of water works and public buildings, Patrick Meallie, administrator of police, J. Henry Behan, administrator of commerce, Washington Marks, administrator of assessments, and James D. Houston, administrator of improvements, defendants, a manifest error hath happened, to the great damage of the said State of Louisiana and said New Orleans Gas-Light Company, as by their complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and custom of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 2nd day of July, in the year of our Lord one thousand eight hundred and eighty.

[SEAL.]

F. A. WOOLFLEY,
Clerk of the United States Circuit Court
for the District of Louisiana.

(Indorsed:) Supreme court of La. No. 7661. State, ex rel. N. O. Gas-Light Co., versus The Council of the City of New Orleans. Writ of error. Filed 12' July, 1880. T. McC. Hyman, d'y clerk.

260 THE UNITED STATES OF AMERICA:

Supreme court of Louisiana.

The President of the United States to The Council of the City of New Orleans, Isaac W. Patton, mayor, Alfred H. Isaacson, administrator of finance, John Glynn, jr., administrator of public accounts, Emile R. Chevalley, administrator of water works and public buildings, Patrick Meallie, administrator of police, J. Henry Behan, administrator of commerce, Washington Marks, administrator of assessments, and James D. Houston, administrator of improvements, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, wherein The State of Louisiana, on the relation of the New Orleans Gas-Light Company, is plaintiff in error, and you are defendants in error, to show cause,

if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this ninth day of July, in the year of our Lord one thousand eight hundred and eighty.

[SEAL.] E. BERMUDY,
Chief Justice La.

Rec'd July 12th, 1880. And on the 12th day of July, 1880, I served copies of within citation on The Council of the City of New Orleans herein named; on I. W. Patton, mayor; on Alfred H. Isaacson, administrator of finance; on John Glynn, jr., administrator of public accounts; on Emile R. Chevalley, administrator of water works and public buildings; on Patrick Meallie, administrator of police; on J. Henry Behan, administrator of commerce; on Washington Marks, administrator of assessments; on James D. Houston, administrator of improvements, all herein named, through E. H. McCaleb, city att'y, accepting service for the same in person. Returned same day.

H. FEEHAN, *D'y Sh'ff.*

Sh'ff's fee, $9.00.

261 Hugh Feehan, being duly sworn, deposes and says that the facts set forth in the within return are true and correct.

H. FEEHAN.

Sworn to and subscribed before me this 14th day of July, 1880.

[SEAL.] T. McC. HYMAN,
D'y Clerk Supreme Court La.

(Indorsed:) Supreme court. 4 D. C. 45644. No. 7661. State of La., ex rel. N. O. Gas-Light Co., vs. The Council of the City of New Orleans et al. Citation. Marshal's return. Filed 14' July, 1880. T. McC. Hyman, d'y clerk.

(Indorsement on cover:) No. 274. The State of Louisiana, ex rel. The New Orleans Gas-Light Co., plaintiff in error, vs. The Council of the City of New Orleans, Isaac W. Patton, mayor, et al.

Louisiana supreme court. Filed 23rd September, 1880.

108-568

OFFICE SUPREME COURT U. S.
FILED
APR 7 1883
JAMES H. McKENNEY, Clerk.

Supreme Court of the United States.

OCTOBER TERM, 1882.

No. 274.

THE STATE OF LOUISIANA ex rel. THE NEW ORLEANS GAS LIGHT COMPANY

vs.

THE COUNCIL OF THE CITY OF NEW ORLEANS.

BRIEF OF PLAINTIFF IN ERROR.

THOMAS J. SEMMES,
Of Counsel for Plaintiff in Error.

Thomas McGill & Co., Law Printers, Washington, D. C.

Supreme Court of the United States.

OCTOBER TERM, 1882.—No. 274.

THE STATE OF LOUISIANA EX REL. THE NEW ORLEANS GAS LIGHT COMPANY

vs.

THE COUNCIL OF THE CITY OF NEW ORLEANS, ISAAC W. PATTON, MAYOR, &c.

On 12th June of 1878 the relator recovered judgment in the Fourth District Court of New Orleans against the city of New Orleans, for the sum of $113,368.85, with interest as stated in the judgment, (p. 28.) This judgment was based on two contracts for lighting with gas the city and its public buildings. (See petition, p. 25.) One of these contracts is dated 31st December, 1874, by which the relator agreed to furnish the city gas-light for the year 1875, (pp. 19–21;) the other contract is dated 17th December, 1875, by which the relator agreed to furnish the city with gas-light for the years 1876 and 1877, (pp. 22–3.)

There is no dispute about the debt or the judgment.

This judgment was duly registered on 23d October, 1878, in compliance with the provisions of section 2, act No. 5 of the extra session of 1870, (p. 43.)

That section provides as follows:

SECTION 2d. *Be it further enacted, etc.*, That hereafter no writ of execution or *fieri facias* shall issue from any of the courts of this State against the city of New Orleans to enforce the payment of any judgment for money against the

city of New Orleans, but final judgment against the city of New Orleans, condemning said corporation to pay any sum in money, when the same shall have become executory, shall have the effect in law of establishing and fixing the amount of the plaintiff's demand against said corporation, and the plaintiff may cause a certified copy of said judgment, together with a copy of the plaintiff's petition, and the defendant's answer in the cause in which such judgment is rendered, together with the certificate of the clerk of said court, that such judgment is final and executory, to be filed in the office of the controller of said city, and it shall be the duty of the controller, or auditing officer of said corporation, to receive the same and cause the same to be registered in his office, of the date on which the same shall have been presented, and when so registered, it shall be the duty of the controller to warrant on the treasurer or disbursing officer of the corporation for the amount thereof, without any special appropriation of money therefor by the common council; provided, always, that there be sufficient money in the treasury to pay such judgment specially designated and set apart for that purpose, in the annual budget or detailed statement of items of liability and expenditure, required to be made by the one hundred and twenty-fourth section of the act of the legislature, entitled, "An act to consolidate the city of New Orleans, and to provide for the government of the city of New Orleans and the administration of the affairs thereof," approved March 26, 1856, or such laws as may be hereafter enacted relating thereto.

SECTION 3d. *Be it further enacted, etc.,* That in case the amount of money designated in the annual budget for the payment of judgments against the city of New Orleans, at the date when any judgment against the said corporation shall have become final and executory, shall have been exhausted, the common council shall have power, if they deem it proper, to appropriate from the money set apart in the budget or annual estimate for contingent expenses, a sufficient sum of money to pay said judgment or judgments, but if no such appropriation be made by the common council, then all judgments shall be paid in the order in which they shall be filed and registered in the office of controller, from the first money next annually set apart for that purpose.

The city having failed to provide for the payment of the judgment in its annual budget for the year 1879, the relator, on the 22d of September, 1879, applied to the said Fourth District Court for a mandamus to compel the city to appropriate certain expected revenues to the payment of its floating debt, of which the judgment constituted a part. (Petition, pp. 2, 3.) The scope of this application was enlarged by a supplemental petition, in which it is alleged that during the whole period embraced by the contracts aforesaid, the city had the power to levy taxes to the extent of one and three-quarters of one per cent., and that the limitation of the taxing power to one and one half per cent. by the premium-bond act—known as No. 31 of the year 1876—was inoperative and void, so far as it affected the rights of the relator, and the said act impaired the obligation of the contracts aforesaid, in violation of the 10th section of article first of the Constitution of the United States. (Supplemental Petition, p. 8.)

The two petitions combined, contain a prayer that the city administrators include in the next annual budget of receipts, the expected revenues above referred to, and include in the next annual budget of expenses the aforesaid judgment of relator, and all judgments previously registered, and provide for their payment out of the expected revenues, and if necessary to exhaust their powers of taxation, and continue to do so until the judgment of the relator is paid.

The city answered that the expected revenues had been received, and before the institution of the mandamus proceedings, had been applied to the reduction of its bonded debt; that its taxing power for the years 1875 and 1876 had been exhausted by the levy of a tax of one and three-quarters per cent. for each of said years; that for the years 1877 and 1878 only a tax of one and one half of one per cent. for each year was levied, because the premium-bond act of 1876 had reduced its taxing power to that amount.

The District Court rendered a judgment, commanding the city officers to put the relator's judgment and all previously registered judgments on the next annual budget, and to provide for their payment, "in the order in which they are registered, through and by means of all taxes imposed, collected, or held for current city expenses, not levied or collected in pursuance of law for some other specific purpose; and in order to insure a sufficient fund to provide for the payment of said judgments to exhaust their powers of taxation, and continue to do so if necessary until the judgment of the relator is paid and satisfied," and all other relief is denied, (p. 117.)

This judgment was affirmed by the Supreme Court without change, (p. 123.)

We do not complain of the judgment of the Supreme Court, or of the inferior court, as to the application of the expected revenues above mentioned to the bonded debt; they had been received and spent before the institution of our suit. We complain of the terms of the judgment affirmed, as to the extent of the taxing power of the city. The city is commanded to exhaust its taxing power, but the judgment fails to tell us what is the extent of that power, and that was the main issue in the case. The city, in its answer, asserted that its taxing power was limited by the act of 1876 to one and one-half of one per cent.; the relator asserted, that so far as its contracts were concerned, the limit was one and three-quarters of one per cent., as fixed by the act of 1872.

In the brief for rehearing filed in the Supreme Court this lack of precision is pointedly called to the attention of the court.

Assignment of Error.

That the Supreme Court of Louisiana refused to adjudge the relator entitled to the imposition of annual taxes to the extent of one and three-quarters of one per cent., to insure

a sufficient fund for the payment of relator's judgment, and that the power of taxation of the city of New Orleans would not be exhausted, until the limit of one and three-quarters of one per cent., exclusive of schools, and of the bonded debt and interest thereon, was reached.

The judge of the District Court considered that the rate of taxation to which the relator was entitled, was regulated by the statutes in force in the year 1879. He says: "When this judgment was recovered the rate of taxation was what it now is, one and one-half per cent., and that rate of taxation has been levied since the judgment was rendered," (p. 116.)

It is this judgment, based on the foregoing reasons, which the Supreme Court affirmed.

On application for rehearing, the counsel for the relator specifically pointed out the vagueness of the judgment of the lower court. They say:

"The decree of the lower court orders the defendants to exhaust their powers of taxation, but specified no rate. In our third brief we called your attention to this vagueness, and asked a specific rate to be expressed in the decree. Referring to the opinion, we supposed that the district judge meant to give us the rate which he named in his opinion, viz.: one and one-half per cent. If that is so, *we ask that you so express it in your decree.* We have spent a great deal of labor and incurred considerable expense in *endeavoring to elicit your honors' opinion in this matter and to have your judgment.*" (pp. 123–4.)

In an additional application for rehearing, the same counsel say:

"We have insisted that we were entitled to the rate in force at the time the obligations were created upon which the judgment is based. The rate of taxation then in force is regulated by the nineteenth section of act No. 7 of the extra session of 1870, p. 39, as modified or amended by section 15 of act 73 of 1872, p. 127, which limits the rate of taxation to one and one-quarter of one per cent. for

current city expenses, including police and exclusive of interest and schools.' Whether this limitation includes judgments already rendered we submit to your honors without further argument. If it does, then the rate of taxation to satisfy our judgment could not exceed one and a quarter per cent. exclusive of interest and schools. One and one-quarter added to the one-half to be levied for the premium bonds would make $1.75, the rate which we claimed in our supplemental petition. The judgment of the court is lacking in precision in this, that it specifies no rate of taxation, although in the opinion, the judge considers us entitled to a levy of one and a half per cent. This, however, to be the *limit for all purposes*. According to the act of 1872 we are entitled to one and a quarter per cent. exclusive of the provision for the schools and interest. We pray your honors to amend the decree so as to allow us this much taxation at least, and to specify the rate." (p. 126.)

The Supreme Court of Louisiana remained dumb; it simply ordered "that the rehearing applied for in this case is refused," (p. 26.)

This order was rendered on the last day of the existence of the then Supreme Court; for the next day it was superseded by the court organized under the new constitution. This may account for the indifference of the court to the appeals of the relator in its application for rehearing.

We think we have a right to treat the decree of the Supreme Court as a judgment limiting the city's power of taxation to one and one-half per cent., as fixed by the premium bond act of 1876. That act devotes one-half of one per cent. to the execution of the premium bond plan, and one per cent. to all other purposes. If this be the true construction of the decree of the Supreme Court, it is clearly erroneous, for our contracts with the city were entered into prior to the passage of the premium-bond act, when the rate of taxation was one and one-quarter of one per cent. for current expenses, exclusive of interest and schools. At all events, the plaintiff in error is entitled to know what is the

meaning and what is the scope or effect of the decree of the Supreme Court of Louisiana.

No court of justice should be allowed to deal in Delphic decrees.

Respectfully submitted,

THOS. J. SEMMES,
for Plaintiff in Error.

I append sections of the acts of 1876 and 1872, in regard to rate of taxation.

APPENDIX.

Section 6 of the premium bond of act of 1876:

"That it shall be the duty of the City Council in the month of December of each year or in the annual budget adopted for the ensuing year to include an amount sufficient to meet and pay the principal and interest of the premium bonds, together with premium included in the several allotments of series and premiums fixed for such year by the aforesaid ordinances and this act. It shall be the duty of the Council annually to levy an equal and uniform tax on all the assessed property within the corporate limits of the city at a rate sufficient to provide the amount included in the budget as aforesaid, and said tax so levied shall constitute a special fund to be used for no other purpose than the payment of said bonds and interest on the said premiums comprised in said allotment, and the fund so raised shall be placed to the credit of an account to be called the premium bond account, and no money from said fund shall be paid out except on the joint authority of the Commissioners of the consolidated debt. The said tax to be raised shall be denominated the premium-bond tax, and shall be separately mentioned in the tax rolls and receipts, provided *that the taxable power of the city of New Orleans for all purposes, including general administration, school, police, lighting, salary of officers, court expenses, and every other purpose of government, including the sum to be raised to pay the premium bonds as above stated, shall never until the full, complete, and final payment of the said premium bonds exceed the rate of one and one-half per centum on the dollar of all the assessed value of property* subject to taxation within the limits of said city of New Orleans," &c.

The 11th section provides that after the year 1881 the city shall levy at least one-half of one per cent. tax "for the carrying out the premium-bond plan and to distribute the surplus realized therefrom, if any, in retiring the outstanding bonded debt;" "*provided said half of one per cent. taxation be considered as part* of the one and a half per cent. taxation to which the taxing power of the city is limited

by this act; the intention of this section being to limit the city taxation to one and one-half per cent. annually until the entire extinction of the bonded debt."

The city charter of 1870 fixes the limit of taxation for all purposes at one dollar and seventy-five cents on every one hundred dollars of assessed value; but the amendment of 1872 provides as follows:

"That the council after the adoption of the estimate shall proceed to levy the annual taxes required, to wit:

"1. The city debt tax, which shall be based upon the detailed estimate of the sinking funds and interest falling due. For all bonds for which no other retiring provision exists by law, an estimate shall be included of not less than two nor more than ten per cent. of the bonds outstanding, of any of the several issues, which shall be applied to the retiring of bonds offered at the most advantageous rates, no bid to be accepted higher than par, and the right reserved to reject all bids. No *limit* other than herein laid down shall apply to this tax, which is hereby declared a vested right of the bondholders interested.

"2. A tax for current expenses, including police, and *exclusive* of interest. This tax *shall in no year exceed one and a quarter* per cent. upon the assessed value of real, personal, and mixed property."

The Supreme Court of Louisiana has interpreted act No. 5, extra session of 1870, alluded to in the brief. In State *ex rel.* Carondelet Co. *v.* Mayor *et al.*, 30 La. An., 131, the court says:

"It was therefore the plain duty of the mayor and administrators to have provided in the next annual budget after the 4th of February, 1875, for the payment of this judgment, registered at that date and all the other then unpaid registered judgments. This plain duty they have failed to perform, although more than fifteen months had elapsed after the registry of relator's judgment before the suit was brought. The city is not required to levy a special tax to pay registered judgments other than the levy made annually for all purposes; and a resort to the contingent fund is discretionary, not compulsory. It is the duty of the city, in making up the annual budget, to desig-

nate and set apart an amount sufficient to pay all the registered judgments, and to pay them in their order, out of the money so set apart. This duty of the city does not depend on the amount of the judgments rendered, but on the fact of the registry. A sufficient amount must be provided—set apart—and if a sufficient sum should not be realized out of such appropriation in the annual budget next succeeding the registry to pay all the registered judgments, such as are not paid must figure of course in the next annual budget, and so on until they are all paid, according to their respective priorities."

108 568

FILED
APR
JAMES H. McKENNEY, Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

No. 274.

THE STATE OF LOUISIANA EX REL. THE NEW ORLEANS GAS LIGHT COMPANY, PLAINTIFF IN ERROR,

versus

THE CITY OF NEW ORLEANS, DEFENDANT.

BRIEF FOR DEFENDANT IN ERROR.

C. F. BUCK, City Attorney,
For Defendants in Error.

A. W. Hyatt, Print, 75 Camp St. N. O.—25,040



SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

No. 274.

THE STATE OF LOUISIANA EX REL. THE NEW ORLEANS GAS LIGHT COMPANY, PLAINTIFF IN ERROR,

versus

THE CITY OF NEW ORLEANS, DEFENDANT.

BRIEF FOR DEFENDANT IN ERROR.

The defendant in error submits, first, that this Honorable Court is without jurisdiction in this cause. It does not appear that a question under Revised Statutes, S. 709, was properly raised in, or decided by, the Supreme Court of Louisiana, in this case, adversely to the pretensions of relator.

No formal motion to dismiss has been made, and the discussion of such motion would be so intimately connected with the merits, involving the same analysis of the pleadings and JUDGMENT *to which the writ of error is taken, that one argument is submitted on all questions presented by the Record.*

The Record in this case is encumbered with voluminous pleadings, city ordinances and evidence relative to the receipt and dedication by the city of a certain sum of money ($630,600), proceeds of sale of a street railroad franchise, to the reduction of her bonded debt, which, it is claimed, should have been devoted to the payment of judgments.

This demand, which forms almost exclusively the substance

of the original petition (pp. 1–4), is abandoned in terms. (See Brief of counsel for plaintiff in error, p. 4).

"Supplemental Petition" was filed (p 8), in which the allegations are made on which the issue to be determined is formed.

There is some *confusion* in these allegations as to what relator considered or understood the taxing power of the city to have been during the years 1875 to 1878.

It is first alleged that, during the period named, the city had authority to impose a tax of one and seventy-five one-hundredth per cent. on the dollar of assessed valuation of property.

In the next paragraph, however, it is stated "*that the limitation of the taxing power of the corporation to one and one half per centum, by Act No. 31, of the session Acts of 1876, is inoperative and void so far as it affects the rights of relator,*" etc., etc.

This act (No. 31, of 1876) went into operation, so far as the levying of the tax is concerned, only with the year 1877. For the years 1875 and 1876 the taxes were levied in accordance with section 15, of Act No. 73, session Acts of 1872, cited in the appendix to relator's brief, which law remained in force until the Act 31, 1876—the Premium Bond Act—was passed.

This act, therefore, clearly affects only so much of relator's claim as accrued during the year 1877. To this point then there has been no legislation impairing the obligation of the contract (?), and, therefore, this Honorable Court, if the record present, indeed, a question for review by it, must find itself limited to the inquiry whether or not this act, in limiting taxation for the year 1877, to one and one-half per cent., impairs any previously acquired vested rights of relator to a higher rate of tax. But we will show that this court is wholly without power or jurisdiction in this: that there is nothing in the record or judgment brought up which can be reviewed and amended by this court.

Relator's contracts (?) to light the city with gas were for the years 1875, 1876 and 1877. A portion of the claim for 1877 was not recognized by ordinances until some time in 1878, but the rights of relator, whatever they be, must be determined by

the law in force in and for 1877, and by the city's action, under the law in regard to the levy of taxes for that year. The debt accrued during that year, and, as will be readily understood as this case develops, was primarily payable out of the revenues of that year.

The judgment of the court, of first instance, affirmed by the Supreme Court of Louisiana, and from which the writ of error is prosecuted, is in *the very words of the prayer of relator's petition*, which is that the Mayor and Administrators be commanded "to "include in the next budget or estimates of receipts the price or "proceeds of the aforesaid railroad franchises, and in the next "budget or estimate of expenses and liabilities the judgment "aforesaid in favor of relators, the New Orleans Gas Light "Company, and all previously registered judgments, and in or-"der to insure a sufficient fund to provide for the payment of "said judgments, *that they and their successors in office shall, if ne-"cessary, exhaust their powers of taxation, and continue so to do until "relators' judgment is paid and satisfied.*"

See judgment (p. 117).

After the judgment was rendered, in briefs for rehearing, relator complains that the court should have determined the *limit* to which the city should go, in her taxing power, for relators' benefit.

Probably the Supreme Court of the State thought that the relator ought to have been satisfied when he received from it all that had been asked in this regard.

A simple inspection of the opinion delivered by the judge of the original court, p. 113, and particularly that of the Supreme Court, p. 121, will show to your Honors that the controversy was waged most fiercely on the point which in this court is wholly abandoned: the dedication of $630,000 *bonus* then about to be received from the New Orleans City R. R. Co.

On the demand for the exercise of the taxing power, the judgment as we have seen is in literal accord with the prayer of the petition. It is hardly fair to the Supreme Court of the State

that its judgment *in favor* of the relator, just as he asked it, should be brought to this Honorable Court for *interpretation*.

Such is the sole purport and effect of the appeal to this Court. Your Honors are asked to determine what under the laws in force in 1875, 1876 and 1877 was the taxing power of the City of New Orleans.

Taking this view of the case does the Record present a question over which this Court has jurisdiction? Obviously not. There is nothing decided *against* the relator. *It is not decided that the Act of 1876 impaired a right previously vested in the relator.*

The city is simply ordered to exhaust her taxing power, and the judgment responds to the prayer of relator's petition.

There was no demand that any particular power of taxation be exercised; and no decision *adverse* to the demand, justified by subsequent legislation. What right of relator can you find assailed by the *judgment*, in violation of the Constitution of the United States?

If relator has a "barren" victory it is, perhaps, his own fault.

He might go into Court and, alleging what the taxing power was, demand that it be exercised, and the judgment from which the writ of error is prosecuted could not be opposed as *res adjudicata*. The answer to the plea would be the city has been ordered to exhaust her taxing power, but it was not decided what that power was. This illustration, which is strictly applicable to the case, should be decisive of the question of jurisdiction in this court. We will not discuss elementary rules of jurisdiction before this Court. The writ of error lies from a State Court of last resort, when its decision is *adverse* to a right asserted to be under protection of the Federal Constitution and laws.

In this case, it can be conceived how, under the allegations, an issue might have been made and a decision rendered on which the jurisdiction of this court, on the face of the papers, would become apparent.

But that issue was not presented. The allegations made in

the body of the petition must, for the purposes of this suit, be limited by the prayer of the petition.

This is a universal rule of practice in suits at law, and in an application for a mandamus, to compel the performance of a duty imposed by law, in the nature of things, the prayer must be specific, and the judgment cannot go beyond the prayer.

We submit therefore:

1st. That under the allegations of relator's petition he is not entitled to the form of judgment which is asked at the hands of this Court, *in argument.*

2d. Even if he be entitled to such judgment this court is without jurisdiction to award it, because the judgment appealed from does not affirm the validity of any law or city ordinance, impairing the obligation of his contract; it orders the city to exhaust its taxing power, but does not decide that at any time during the period in queston that power has been reduced by legislation below the rate in which relator asserts a vested right. That question is left undetermined and, obviously, for no other reason than that *the pleadings did not present it for determination to the court.*

It was only after the hopelessness of the demand for the $630,000 had taken full possession of the minds of counsel; and, after the decision of the cause by the Supreme Court, that the latter was pressed to say what the rate of taxation shall be, to which relator is entitled. See application for rehearing, p. 123.

The fact that the court did not do so is sufficient to defeat the jurisdiction of this court. The *omission* to decide a question certainly cannot be construed to be a decision on the merits of the question.

The court probably considered that it had done ample jus tice when it gave to the relator all he asked; it held effectually that this relator was not entitled to the grace of an exception to a universal rule; that a court of last resort will not notice points urged by counsel, *in argument*, which are not presented in the pleadings.

It is very evident, from the petitions, that the relator had very uncertain ideas of what the rate of tax was, which is claimed to be a part of the contracts. He claims that it was one and three-quarters per cent. This, as matter of law, is incorrect. By the Act No. 7, E. S., of 1870, City Charter, it is true the taxing power of the city was fixed at one and three-quarters per cent. But this was amended by Act No. 73, Acts of 1872, already referred to, cited in appellant's brief, p. 9. This act was in force until the Premium Bond Act was passed in 1876, which, in so far as it affected the taxing power of the city, did not go into operation until January 1st, 1877.

One of relator's contracts was to furnish the city with gas, from January 1st, 1875, to December 31st, 1875—p. 19. During this year there was no legislation changing the rate of tax. Is there any thing to be decided by this court as to relators' rights under this contract? On the face of the papers, by his own allegations, its obligation has never been impaired. The State court has given him a judgment that this taxing power, then existing, be exhausted. What more can he demand? As to so much of the judgment as is founded on claims due under this contract for 1875, there is, therefore, clearly nothing to be passed on by this court.

The other contract (?) (p. 22), is for two years, from January 1st, 1876, to December 31st, 1877. We have seen that Act No. 73, of 1872, remained in force until January 1st, 1877. Now, it is true this contract is for two years, but it is a *yearly* contract; it is in the nature of a lease for a period of two years, at so much per year. See contract, p. 23. "Said lamps to be furnished, etc., etc, * * * * at the price of twenty-nine dollars and seventeen cents ($29 17) per lamp *per annum*."

The claim for furnishing gas during the year 1876 was, therefore, as distinct a contract from that for the same thing for 1877 as if there had been two distinct yearly contracts.

Therefore, the claim for 1876 gives rise to no question reviewable by this court, because there was no legislation im-

pairing relator's right between the 1st of January, 1876, and the 31st of December, 1876.

The only question, therefore, which could, by any possible construction of the law and the pleadings, obtain consideration at your hands, would be "what is the taxing power of the City of New Orleans, which relator has the right to have 'exhausted, for the year 1877, to pay so much of his claim as remains due for that year," in the face of the limitation in the Premium Bond Act?

It seems almost paradoxical to attempt to argue this question, because taken in connection with the pleadings and the judgment appealed from, its very statement suggests the want of jurisdiction in this court.

But, to meet the relator on his own ground, let us assume that he had alleged that the taxing power for *municipal expenses*, on the 1st of January, 1876, when the contract was made, was one and one-quarter per cent. (Act 73 of 1872); that he was entitled to the levy of a tax, at this rate, to satisfy his claim; that, by operation of Act No. 31, Acts of 1876, the taxing power for municipal expenses had been reduced to one per cent.; that he contested this reduction as an impairment of the obligation of the contract; that the decision of the Supreme Court of Louisiana was against his pretension and to the effect that Act No. 31, of 1876, did not impair the obligation of his contract.

Would there be error in such a decision? It is demonstrable, on rudimentary principles, that there would not. What is the import of the contract which relator entered into with the City? To supply gas during the year 1877, at a price agreed on.

The lighting of the city is one of the ordinary objects or incidents of municipal government.

Under the law, the city government was required annually, in the month of December, to make an estimate or budget of expenditures and revenues, and levy a tax within the limit prescribed, for the ensuing year.

Such estimates and tax levies were made for the years in

question, and the ordinances of the city were offered in evidence. Similar legislation in regard to municipal corporations is so generally the rule that it is not deemed necessary to cite the statutory provisions.

In each of these "budgets" an appropriation, presumably for the full amount of the contract for the year, is made in favor of relator. For 1875, see pp. 75 et seq. For this year a tax of *two and one-half* per centum was levied, p. 80. It is a mere question of calculation whether out of this, "municipal expenses," inclusive of "police," received the benefit of a tax of one and one-fourth per cent. as allowed by Act 73, Acts of 1872. Relator will hardly expect this Honorable Court to make the calculations for him.

The estimate for expenses of 1876 begins at p. 86. Appropriation for "gas contracts," p. 88—$147,000 00.

The ordinance estimating revenues and levying the tax for the same year, is at p. 83. For this year, although Act of 1872 as aforesaid, was still in force, the city levied a tax of only one and a half per cent.; but, in the meantime, 1875, the city, through political turmoil, natural calamities, etc., had become so embarrassed and overburdened that the heavy tax of the preceding year could not be collected, and the Legislature passed an Act authorizing the city to suspend the payment of interest on her public debt. So embarrassed was the city that a large number of the creditors, in 1875, on condition of payment to them of one-half the interest accruing on their bonds, consented to permit the city to use for governmental purposes, the other half of the tax levied to pay them. So that in December, 1875, a tax of only one and a half per cent. was levied for 1876; but it is a fact that no interest on public debt was paid during that year, and it could again be demonstrated from the figures that the "city expense account, and police" probably received, at least, the proceeds of a tax of one and one-fourth per centum.

Now, for 1877, the situation is somewhat changed. The "Premium Bond" Act had been passed, and when, in December

1876, the municipal authorities assembled to pass their "budget-ordinances" for 1877, they accepted this Act as their guide. See "estimate of expenditures," p. 91, item: "gas contracts – $146,500 00, p. 92.

The ordinance for levying the tax for 1877 is at p. 89. The rate is one and one-half per centum, as directed by Section 6, of the Premium Bond Act.

Right here let us call the attention of your Honors to the correction of an erroneous impression which has prevailed even among the lawyers and judges of New Orleans, and which evidently operated on the minds of the learned counsel who instituted this proceeding and that is, that without careful investigation Section 6, of said Act, was accepted as providing absolutely that the fifteen mill tax, allowed to be levied, shall be applied: five mills to the Premium Bond Scheme, and ten mills, or one per cent., to alimony of the government. The act contains no such provision. The section is cited by relator in the appendix to his brief. The very first sentence simply makes it the duty of the Council, annually, in the "budget" for an ensuing year, to appropriate an amount sufficient to meet the obligations of the city under the plan. *After* the year 1881 the mandate is absolute that not less than one-half per centum of the total tax shall go to the debt fund.

It is strange that language so clear should ever have been misunderstood. For and after the year 1882 the premium bonds must have not less than five mills. For the year 1877, and subsequent years, to 1881 inclusive, the city was bound to appropriate for premium bonds, out of this total of fifteen mills, only so much as the execution of the scheme might require; the difference she could and did use for her alimony.

We have already shown that the only branch of this case, which might possibly have become reviewable by this court, is that arising out of an alleged impairment of the obligation by the reduction, for 1877, of the rate of tax in force when the contract to furnish gas was signed by operation of the Premium

Bond Act. Now, if we show your Honors, 1st, that on the face of this act it does not appear that such obligation was impaired; and, 2d, as a fact, that the city received and used, for municipal expenses in 1877, the proceeds of more than one per cent. tax, and possibly, under operation of the act, the proceeds of a tax of one and one-fourth per cent., the demonstration is complete that the Act No. 31 does not impair, necessarily, the obligation of relator's alleged contract.

The proceeds of a tax of one and one-half per cent. on $109,500,000, assessed valuation of property is $1,642,500—p. 89. The City Council understood and interpreted section six of Act 31, 1876, correctly. They did not give to the premium bonds the proceeds of one-half per centum of this tax, which would have been $547,500, but appropriated (p. 93) only $426,250—$121,250 less than five mills, the amount required by the *plan*. Now, it is further apparent on the face of the act, that this estimate of the requirement of the *plan*, was based on the issue of $20,000,000 bonds; but it is a notorious fact that there were at no time more than a fraction ever $13,000,000 of premium bonds in circulation. The effect of this is that the *unissued* numbers held by the city participate in the drawings, and a large proportion of the amount theoretically required for the plan is not paid out but remains with the city. Under the operation of this feature of the *plan*, it could be shown as a fact that the actual amount paid by the city, in 1877, under the appropriation "city debt interest and redemption," was much less than the sum appropriated, and the difference might be used for general current expenses, and help to yield for that purpose an amount approximating, if not equalling, the proceeds of one and one-quarter per centum tax.

We appreciate very well that your Honors are not bound to inquire into these details. They are explained, however, to show that it is utterly impossible, from the record before us, to say whether as matter of law or of fact, any obligation in favor of the Gas Company has been impaired. We have seen that the

utmost relator might possibly claim would be the levy of a tax for 1877, of one and one-quarter for city expense. It is shown on the face of the Premium Bond Act that the city is not, for that year, necessarily reduced to the proceeds of a tax less than one and one-quarter. She is only ordered, out of the one and one-half per cent. tax, to appropriate to the Premium Bond Plan, the requisite amount. *Non constat* but that the proceeds of one and one-quarter per cent. were left to the city for alimony. In that event the taxing power in which relator is interested is shown to have been preserved to him intact.

The relator's pleadings are vague, and the argument now addressed to the court is not responsive to them nor to the assignment of error. We take this from the brief—p. 4:

"ASSIGNMENT OF ERROR.

"That the Supreme Court of Louisiana refused to adjudge the relator entitled to the imposition of annual taxes to the extent of *one and three quarters of* one per cent., to insure a sufficient fund for the payment of relator's judgment, and that the power of taxation of the City of New Orleans would not be exhausted, until the limit of one and three quarters of one per cent., exclusive of schools, and of the bonded debt and interest thereon was reached."

It is evident that relator is not entitled to a declaration that the power of the city is now, or was in 1875, 1876 and 1877, to levy a tax of *one and seventy-five hundredths* per centum: because the act which prescribed this tax had been *repealed three years before relator made his first contract with the city.*

The mistake must have been discovered after the "assignment of error" was made. In the appendix to counsel's brief, we have the law on which relator must stand. Sec. — of Act No. 73, Acts of 1872. An unlimited power as to *rate* is given, to satisfy the "sinking funds" and "interest falling due": and a power to levy for "*current expenses*, including police," a tax which shall in no year exceed *one and a quarter* per cent.

In the pleadings and assignment of errors, as we have seen,

your Honors are in substance asked to declare that the rate of taxation in 1875, 1876 and 1877 was one and three-quarter per cent. *for all purposes*.

What relief, we repeat, can this court grant under such pleadings, and from such a judgment as was herein rendered *in favor* of plaintiff in error? The one and three quarters per cent. rate, under the Act of 1870, was for all purposes—public debt and alimony of the government.

But there is another and more important particular in regard to which the pleadings and argument are not specific. The city is ordered to "exhaust her powers of taxation, and continue to do so," etc.

The relator asks the court to say not only what these "powers" are, but how, and for what years or period of time they are to be exercised for his benefit.

If the relator distinctly alleged that in 1876, for instance, he furnished gas to the city, expecting payment out of the proceeds of the taxes to be levied in that year; that the city had a certain taxing power which she did not exert to its full extent; that by reason thereof relator has not been paid, and he has a right to demand that such powers be exhausted that he may be paid, we could see a clear and well-defined issue.

But this issue is not presented. How, then, are we to understand the position of relator? Does he ask that, because in 1875, when the contract was made for "lighting the city" for two years, the taxing power of the city for general expenses was one and one quarter per cent.; that although that amount was or may have been levied that year, relator has the right, irrespective of subsequent legislation, to compel the city, for an indefinite period of time, to continue to levy the same rate of tax until the debt is paid? Impossible. It will not be disputed that "lighting the city" was one of the ordinary and usual incidents to *municipal administration:* just as providing an efficient police, or keeping the streets in repair are. The Gas Company, relator, had no stronger or more comprehensive contract with the city,

so far as sources of payment are concerned, than the police officer who rendered twelve months' services at a stipulated salary per month. The *contract* (?) with the Gas Company was to the effect that she should light the streets and public buildings for a period of one or two years, at a fixed amount for each lamp, which may be required by the city. Is there any express or implied power of taxation conferred to secure the payment as part of the contract? No. The word *contract* is not talismanic: it is not every agreement to pay money, by a municipal corporation, which implies an obligation to levy a particular tax to pay it, irrespective of general legislation. We need not review the jurisprudence of the land as settled by this court on this subject. The *contracts* which have been protected by this court, as a rule, which have been enforced by the levy of taxes, were contracts where the law authorizing them was interpreted as conferring the duty to tax, and the court merely compels the performance of the duty. Said this court, in United States vs. County of Macon, 99 U. S. 582, on an application for mandamus to levy a tax to pay a judgment founded on bonds, to pay which a certain limited taxation had been provided by law:

"If the purchaser of these bonds had examined the statutes under which the county was acting, he would have discovered what might prove to be difficulties in the way of payment. As it is, he holds the obligation of a debtor who is unable to provide the means of payment. We have no power, by mandamus, to compel a municipal corporation to levy a tax which the law does not authorize. We cannot create new rights or confer new powers; all we can do is to bring existing powers into operation."

Now, was it ever contemplated that the person who furnished gas light to the City of New Orleans, entered into a distinct special contract with the City, the consideration of which must be paid and the money to pay raised by special taxation? Does it require any argument to show that this was an ordinary item of municipal expense which, with an indefinite number of other items, for various objects, constitute the total expense of

maintaining the municipal government? And does it require any argument to show that this item is a part of the *totality* which is authorized expressly by law, and to pay which a fixed and limited rate of taxation is allowed? And this tax, for this purpose, can be levied but *once*. The very "budgets" offered in evidence, show the expense of "lighting the City" is classed with all other current expenses for each year, and when the tax limit in each year is reached, the power of taxation given by law has been exhausted, and the court cannot extend it.

What does relator mean by asking that the *rate* be fixed by this court, and that the city exhaust it, and *continue* to do so, etc.? Does he mean that if the court should say that the rate fixed by law for municipal purposes was one and one-fourth per cent., that although such limit was reached, yet, inasmuch as it did not seem to have yielded enough to pay relator's claim, the city shall *continue* to impose a tax at the same rate until relator is paid, notwithstanding subsequent legislation? Suppose there had been no "subsequent" legislation, and the taxing power for "municipal expense" had always been one and one-fourth per cent., would not the city, each year, have the right, in making its estimates, to provide for expenditure of the entire tax? How would that help the deficit in relator's claim? All this tends to a sweeping conclusion, which covers this entire case, that the power of taxation which a city may exercise for *purposes of government*, is entirely in the control of the Legislature: that power cannot, perhaps, be diminished in any one year, to the prejudice of claims incurred during that year; but excepting this qualification is absolutely in the control of the Legislature. To assert that because the New Orleans Gas Light Company had agreed to furnish gas to the City of New Orleans during the year 1877, by an agreement drawn up in 1875, at a fixed price, that the Legislature could not, therefore, reduce the taxing power of the city, for general governmental purposes, from one and one-fourth per cent. to one per cent. for the year 1877, is a proposition which we will not argue before this court.

The Federal courts have never done more than compel the exercise of an existing taxing power for the benefit of indebtedness incurred for ordinary expenses. See Dillon on Municipal Corporations, III Edition, Secs. 862 and 863. It is there shown that holders of warrants, or other evidences of municipal indebtedness, may recover judgment, but when they apply for payment by resort to mandamus—

"The writ, when so issued, will only command the proper officers to discharge the *legal* duties they owe under the charter or statutes."

Jordan vs. Cass County, 3 Dillon, C. Ct.

Supervisors vs. United States, 18 Wallace, 71.

Butz vs. Muscatine, 8 Wall. 575.

It is, therefore, respectfully submitted:

First. That the writ of error be dismissed for want of jurisdiction; or,

Second. That the judgment be allowed to stand as it is, since it cannot be amended in favor of the defendant in error; or,

Third. If it be amended, as asked by plaintiff, for the purpose of declaring the rate of tax which the city had the power to levy for muncipal expenses, that it be decreed to be one and one-quarter per cent. for the years 1875 and 1876, and one and one-half for the year 1877, out of the proceeds of which must be deducted the amount required and paid in that year to the premium-bond scheme; and that this power, so far as relator is concerned, is exhausted if it has been exercised for the years during which his contract was in force.

C. F. BUCK, City Attorney,
For Defendants in Error.

108-568

SUPREME COURT U.S.
FILED
APR 24 1883
JAMES H. MCKENNEY, Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

No. 274.

THE STATE OF LOUISIANA EX REL. THE NEW ORLEANS GAS LIGHT COMPANY.

versus

THE COUNCIL OF THE CITY OF NEW ORLEANS.

ADDITIONAL ASSIGNMENT OF ERROR.

That the Supreme Court of Louisiana refused to adjudge the relator entitled to the imposition of annual taxes under the provisions of the Amendatory Act of 1872, section 15, which provides for a tax for current city expenses, including police, and exclusive of interest and schools, not exceeding one and one-quarter per cent. on the assessed value of real, personal and mixed property, to insure a sufficient fund for the payment of relator's judgment, and that the power of taxation would not be exhausted until the limit of one and one-quarter of one per cent. exclusive of schools, and interest on the bonded debt was reached.

What we mean to claim is the rate of taxation existing at the time our contracts were made.

The City Charter of 1870 provides for taxation in the following words:

"To levy an equal and uniform tax for the purposes of this "act, upon all property, real and personal, in said city, under "assessments thereof, to be made in the manner said Council "shall prescribe, and to provide for its collection; but said tax,

"added to the consolidated loan tax and to the special tax, for "the payment of the annual interest on the bonds issued by the "city for subscription to the stocks of the New Orleans, Opelou- "sas and Great Western Railroad Company, the New Orleans, "Jackson and Great Northern Railroad Company, and the Pon- "chartrain Railroad Company, and the interest on the ten per "cent. bonds, and the interest on seven per cent. bonds issued "by the City of New Orleans, shall not, in the aggregate, be "more than one dollar and seventy-five cents on the one hundred "dollars of valuation annually, except in case of invasion or "insurrection, provided it be sufficient to pay the interest on "the consolidated debt and railroad bonds issued by the City of "New Orleans; and also for the purposes of this act, to levy, "impose and collect a license tax upon all persons pursuing any "trade, profession or calling, and to provide for its collection; "and said license tax shall not be construed to be a tax on prop- "erty." Acts of 1870, page 37, Extra Session.

It is perceived that the above provision included interest on the bonded debt; the amendment of 1872 authorized a tax of one and one quarter of one per cent., exclusive of schools and interest on the bonded.

It is said that we are entitled, under the decree appealed from, to exhaust the city's power of taxation; concede the proposition, but the question is, what is the extent of that power?

Suppose we seek to enforce the judgment, and under it, claim the rate of taxation to be one and one quarter per cent. exclusive of interest and schools, will we not again be postponed until after the lapse of years, this court can determine the controversy. One of two things; the judgment means that the limit of the power of taxation is one and one half per cent. including interest, or it does not. If it does, it is a violation of our contract, if it does not, then why resist our effort to have an explicit declaration of its meaning.

The tax levy for 1875 specifies the purposes for which it is made, as follows: city debt tax, one dollar and twelve cents on every $100; police tax, 49½ cents; school tax, one-fourth of one per cent.; park tax one-eighth of one per cent—p. 111.

If you exclude interest and school tax, the rate levied was only sixty cents on the $100. The other expenses of the city were paid by licenses.

In Jan'y, 1876, prior to the passage of the premium bond act, the levy was made as follows: for interest on bonded debt, 26 cents on every $100; school, 25 cents; police, 42 cents; current expense, 57 cents—p. 112.

The rate for that year, if you exclude interest and schools, was only ninety-nine cents.

In July, 1877, the rate was one and one-half per cent for all purposes, including interest. So that in no year was the rate of one and one-quarter of one per cent., for current expenses, exclusive of interest and schools, levied.

Respectfully submitted,

THOS. J. SEMMES,

For Relator.